

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak., or Denver, Colo.

No. MC 139038 (AMENDMENT), filed August 7, 1973, published in the FEDERAL REGISTER issue of September 27, 1973, and republished as amended this issue. Applicant: LEON R. GOLDSMITH, doing business as TERMINAL MOTOR EXPRESS, 1711 East 15th Street, Los Angeles, Calif. 90021. Applicant's representative: Jerry Solomon Berger, 9454 Wilshire Blvd., Penthouse, Beverly Hills, Calif. 90212. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (A) Specialty commodities manufactured, dealt in, and marketed by manufacturing chemists for the graphic arts industry, and materials and supplies used in the manufacture of said commodities (except commodities in bulk), and (B) commodities otherwise exempt under section 203(b) (6) of the act when transported in mixed shipments with those commodities named in (A) above, from (1) plant site of Anchor Chemical Co., Inc., located at or near Hicksville, N.Y., and said company's utilized storage, warehouses and distribution centers located at or near Los Angeles, Calif., Atlanta, Ga., Elk Grove Village, Ill., Boston, Mass., Kansas City, Mo., Charlotte, N.C., Cincinnati, Ohio, Philadelphia, Pa., and Dallas, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Indiana, Kansas, Illinois, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Vermont, and Washington, and return with damaged, rejected, or returned commodities set forth in (A) with or without mixed shipments of commodities named in (B) above; and (2) between plant site of Anchor Chemical Co., Inc., and its storage, warehouses and distribution centers at points set forth in (1) above, under a continuing contract or contracts with Anchor Chemical Co., Inc., Hicksville, N.Y.

NOTE.—The purpose of this republication is to modify applicant's territorial request as described above. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 139054, filed November 23, 1973. Applicant: RANKO SCHURR AND ROGER SCHURR, a Partnership, doing business as SHORTY'S TOWING SERVICE, 5755 University Avenue NE., Fridley, Minn. 55432. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wrecked, disabled, and repossessed motor vehicles and replacement vehicles therefor, by use of wrecker equipment, between points in Hennepin, Ramsey, and Anoka Counties, Minn., on the one hand, and, on the

other, points in Illinois, Indiana, Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Sub-No. 187), filed October 2, 1973. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: R. M. Hannon, 371 Market Street, San Francisco, Calif. 94106. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: Passengers and their baggage in the same vehicle with passengers, in special operations only, between junction U.S. Highway 90 and Louisiana Highway 109 and Vinton, La.: From junction U.S. Highway 90 and Louisiana Highway 109, over Louisiana Highway 109 to junction of Louisiana Highway 109 and State Highway 3063, thence over State Highway 3063 to Vinton, La.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

BROKER APPLICATION(S) OF PASSENGERS

No. MC 130206, filed June 29, 1973. Applicant: WILLIAM J. CHERNESKY, 50 Ocean View Road, Swampscott, Mass. 01907. Applicant's representative: Richard S. Gilmore, Security National Bank Building, Lynn, Mass. 01901. Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Lynn and Boston, Mass., to sell or offer to sell the transportation of passengers and their baggage, as individuals and groups, by bus, in charter tour operations, beginning and ending at Lynn and Boston, Mass., and extending to points in Maryland, Delaware, New Jersey, New York, New Hampshire, Connecticut, Rhode Island, Vermont, Massachusetts, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 130223, filed November 21, 1973. Applicant: PETER PAN WORLD TRAVEL, INC., 1778 Main Street, Springfield, Mass. 01103. Applicant's representative: Frank Daniels, 15 Court Square, Boston, Mass. 02108. Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Springfield, Northampton, Holyoke, and Amherst, Mass., to sell or offer to sell the transportation of passengers and their baggage, individually and in groups, in special and charter operations, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Springfield, Mass., or Hartford, Conn.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-340 Filed 1-3-74; 8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held as follows:

Tuesday, January 15, 1974, at Electromagnetic Systems Laboratory, Sunnyvale, CA.

Thursday, January 24, 1974, at National Security Agency, Ft. Meade, Maryland.

Thursday, January 31–Friday, February 1, 1974, at the Pentagon, Washington, D.C.

These meetings commencing at 9 a.m. will be to discuss classified matters.

MAURICE W. ROCHE,

Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 28, 1973.

[FR Doc.74-252 Filed 1-3-74; 8:45 am]

Office of the Secretary

ARMY MATERIEL ACQUISITION REVIEW COMMITTEE

Purpose and Functions

Designation. The official designation of this committee is the Army Materiel Acquisition Review Committee (AMARC) hereinafter referred to as "the Committee".

Objectives and scope. The Committee serves as an advisory body to the Steering Group composed of the Under Secretary of the Army, Vice Chief of Staff of the Army, Assistant Secretary of the Army (Research and Development), and Assistant Secretary of the Army (Installations and Logistics) to conduct an independent review of the Army's materiel acquisition process, to assess the current Army organization and procedures for Materiel Acquisition, and to make recommendations for improvement. The goal is an Army Materiel Acquisition Process which:

1. Is responsive to the needs of the Army in the field, assuring that equipment is introduced into the inventory in an efficient and timely manner.
2. Requires fewer personnel and less Army-owned/or operated facilities.
3. Reflects a proper balance in the distribution of field and headquarters personnel.
4. Provides for a proper balance between in-house and contract operations.
5. Will result in the development, fabrication, and user verification of hardware items more closely meeting established requirements prior to the heavy production involvement which has characterized our recent past history.

Duration. The period of time necessary for the Committee to carry out its activities will be no more than one year; however, the Under Secretary of the Army has directed that the Committee's

main effort be completed within 100 days of its establishment. In addition, he shall review the progress and necessity for the Committee continuously, and shall apply for continuation beyond one year in accordance with the provisions of Public Law 92-463, "Federal Advisory Committee Act," October 6, 1972 and applicable implementing directives, if it is deemed that the Committee is still required.

Responsible Agency. The Committee shall report to the Under Secretary of the Army.

Composition. The Committee shall be composed of not more than 25 members selected primarily on the basis of their national or international prominence in major specialties in the conception, development, acquisition and production of Army materiel. Each member will be appointed upon the advice of the Committee Director and concurrence of the Steering Group by the Under Secretary of the Army. When required, the Committee shall recommend establishment of informal study teams. In all cases, members shall be drawn from the total membership of the Committee.

The term of office shall be one year or until the Under Secretary of the Army determines that the Committee has completed its tasks. The Under Secretary of the Army, or his designated representative who is a full-time government employee, has the authority to adjourn any meeting which he considers not to be in the public interest.

Support. The agency responsible for providing necessary support to the Committee is the Army Staff.

Deputy Committee Director. 1. The Committee shall be assisted by a General Officer serving as the Deputy Committee

Director and such other qualified civilian and military personnel as may be required in the administration of the activities of the Committee.

2. The Deputy Committee Director shall be assisted by appropriate administrative and clerical staff of the Army Staff and other Army agencies on a full-time basis during the life of the Committee. The Secretary of the General Staff will provide office space, equipment and clerical support for the Committee. Parent agencies of supporting members of the Committee from the Army Staff will provide funds for travel, per diem, and overtime. The Office, Chief of Staff, will provide funds for travel, per diem, and overtime for civilian members of the Committee (both part-time and full-time), as well as Army officers and Department of the Army civilians on temporary duty to the Committee from the major commands.

Duties. The duties of the Committee are to advise the Under Secretary of the Army on matters pertaining to the organizations and procedures used in the Army materiel acquisition process. The study approach will be the following:

1. Ascertain the present status of organization and procedures, including the impact of 1972-1973 changes on the materiel acquisition process.
2. Review findings and recommendations of previous studies of the Materiel Acquisition Process.
3. Develop case studies of at least six development programs.
4. Visit key installations and activities.
5. Study related activities of NASA, AEC, Navy, Air Force, large Industrial Corporations, and foreign governments including the Soviet Union.

6. Conduct face-to-face interviews with key personnel in the Army and other organizations, to include Department of Defense, General Accounting Office, Congressional Committee Staff, etc.

7. Review input-output analyses of each Army Materiel Command Laboratory (5-year period).

8. Prepare a brief final report integrating findings and recommendations of all teams.

Estimated cost. The estimated 100 day operating cost of the Committee is:

1. Office of the Deputy Committee Director:

Man years—Military: 3 man-years total.

Dept. of the Army Civilians: 3 man-years total.

Contract Civilians: 8 man-years total.

2. The Committee: Less than 1/3 man year total.

Budget—\$150,000.

Meetings. The Committee shall meet at least twice within the 100 day period. Study teams shall meet as required.

Operation. The Committee will operate in accordance with P. L. 92-463, E.O. 11686, and implementing OMB and DoD regulations for Federal Advisory Committees.

Committee's Termination date. One year from the date of filing or when its mission is completed, whichever is sooner, or unless prior approval for its continuation is obtained.

Date Charter Filed.

MAURICE W. ROCHE,
Director, Correspondence and
Directives Division, OASD
(Comptroller).

JANUARY 3, 1974.

[FR Doc.74-585 Filed 1-3-74; 11:31 am]

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FRIDAY, JANUARY 4, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 3

PART II



CONSUMER PRODUCT SAFETY COMMISSION

■

CONSUMER PRODUCT SAFETY STANDARDS: REQUIREMENTS AND PROCEDURES

Notice of Proposed Rulemaking

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1105]

CONSUMER PRODUCT SAFETY STANDARDS: REQUIREMENTS AND PROCEDURES

Notice of Proposed Rulemaking

Proposed herein are the Consumer Product Safety Commission's rules for (1) the submission of existing standards, (2) the submission of offers to develop consumer product safety standards, and (3) the actual development of consumer product safety standards by organizations or individuals whose offers have been accepted. Also proposed are the requirements for cost contributions by the Commission toward the development of standards.

The rules the Commission will use to accomplish the development of safety standards are considered to be very important to the general public and the concerned organizations and the affected industries.

The Commission concludes that draft rules should be published as a proposal so that the public, including consumers and others, can comment on the reasonableness, appropriateness, and clarity of the rules. Public comment is therefore invited and the Commission will fully consider submitted comments before finalizing these rules.

Accordingly, under the provisions of the Consumer Product Safety Act (sec. 7, Public Law 92-573, 86 Stat. 1212-15; 15 U.S.C. 2056), the Consumer Product Safety Commission hereby proposes 16 CFR Part 1105 as follows:

PART 1105—SUBMISSION OF EXISTING STANDARDS; OFFERS TO DEVELOP STANDARDS; AND THE DEVELOPMENT OF STANDARDS

- Sec.
- 1105.1 General policy considerations.
 - 1105.2 Summary of time sequence for the development of standards.
 - 1105.3 Commencement of proceedings.
 - 1105.4 Submission of existing standards.
 - 1105.5 Submission of offers.
 - 1105.6 Acceptance of offers.
 - 1105.7 Development of recommended consumer product safety standards.
 - 1105.8 Recommended consumer product safety standards developed by offerors.
 - 1105.9 Contributions to the offeror's cost.

AUTHORITY: Sec. 7, Pub. L. 92-573, 86 Stat. 1212-15; 15 U.S.C. 2056.

§ 1105.1 General policy considerations.

(a) The general policy under which these procedures are issued is that the interest and participation of the public is vital for carrying out the functions of the Consumer Product Safety Commission. Commission activities and deliberations with respect to the development of safety standards will be open to the public and will afford any interested person the opportunity to participate and be heard.

(b) One of the major objectives of the Consumer Product Safety Act is to reduce unreasonable risks of injury associated with the use of consumer products by developing "consumer product safety standards" for those products. "Con-

sumer product safety standards" will consist of (1) requirements as to safety performance, composition, contents, design, construction, finish, or packaging of a consumer product, or (2) requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions, or (3) any combination of paragraph (b) (1) and (2) of this section. Requirements other than those relating to labeling, warnings, or instructions, shall, whenever feasible, be expressed in terms of performance requirements.

(c) Under the act, consumer product safety standards may be issued in two ways. First, the Commission, after publishing a notice of proceeding in the FEDERAL REGISTER, is authorized to publish as a proposed standard, an existing standard which has been previously issued or adopted by a qualified public or private agency or organization. Second, if the Commission determines that there is no acceptable existing standard, it is authorized to accept offers from one or more persons or organizations to develop a new standard.

(d) Since safety standards are intended to eliminate or reduce unreasonable risks of injury associated with the use of consumer products, the Commission, in issuing these rules, seeks the involvement of all interested persons, the general public, and especially, ultimate consumers. Ultimate consumers and their representatives, as well as all other interested persons, are invited and encouraged to become involved by submitting offers to develop standards and by actively participating in the development of a standard by another offeror.

(e) Persons who are not members of an established organization may form an organization for the express purpose of submitting offers and developing standards; such groups are referred to in these rules as "ad hoc associations."

(f) Public involvement will be encouraged through the use of extensive public notice. In addition to providing notice in the FEDERAL REGISTER, the Commission will issue a press release at the initiation of a proceeding. This release will invite any person to submit an existing standard or an offer to develop a standard. A press release will also be issued at the time an offer is accepted. This second press release will invite all interested persons to participate in the development of a standard and will describe the method by which interested persons, including ultimate consumers, may participate.

(g) The act enables the Commission to contribute to the offeror's cost in developing a standard in any case in which the Commission determines that a contribution is likely to result in a more satisfactory standard. The Commission views this provision in the act as a means by which a variety of organizations will be able to develop standards. The Commission also views this provision as a means by which a cross section of interested persons, including consumers, can participate in the development of standards.

(h) The act provides that the invitation for the submission of offers to develop a standard shall state the period of time during which the standard is to be developed. Congress anticipated that this period would normally end 150 days after the publication of this invitation. The act also provides that the Commission may extend or shorten the period for development if it finds for good cause that a different period of time is appropriate either at the time of the invitation or at a later time. The Commission expects to receive standards that will, if adopted, appropriately reduce the unreasonable risks of injury to the public. The Commission will adopt a reasonable approach to determining the amount of time necessary to develop standards. The Commission believes, however, that as a general rule, the public interest is best served by the development of standards in the shortest possible time.

§ 1105.2 Summary of time sequence for the development of standards.

The notice of proceeding inviting the submission of existing standards and the submission of offers to develop standards will specify a period of time during which the standard is to be developed and submitted to the Commission. The act specifies that this period will end 150 days after the publication of the notice, unless the Commission for good cause finds, and includes such finding in the notice, that a different period is appropriate. Under the act, persons must submit their existing standards or offers to develop standards to the Commission within 30 days after the date of publication of the "notice of proceeding." The Commission will evaluate the submissions and will normally publish a summary of the terms of any accepted offer or offers within 60 days after the date of publication of the notice of proceeding. In submitting an offer to develop a standard, each offeror is required to include a realistic estimate of the time required to develop the standard, including a detailed schedule for each phase of the development period. In accepting an offer and publishing a notice of the summary of the terms of each accepted offer, the Commission will either reaffirm the original period of time for the development of the standard, or, for good cause stated, establish and publicize a new period of time for the development of the standard. The standard, with all required accompanying information, must then be submitted to the Commission within the specified time, unless the Commission grants an extension and publishes a notice in the FEDERAL REGISTER stating its reasons for the extension.

§ 1105.3 Commencement of proceedings.

(a) A proceeding for the development of a consumer product safety standard shall be commenced by the publication of a notice in the FEDERAL REGISTER which shall:

(1) Identify the product and clearly describe the nature of the risks of injury associated with the product;

(2) State the Commission's determination that a consumer product safety standard is necessary to eliminate or reduce the specified unreasonable risks of injury associated with the product;

(3) Include information with respect to any existing domestic, foreign, or international standard known to the Commission which may be relevant to the proceeding;

(4) Include an invitation for any standards-writing organization, trade association, consumer organization, technical society, testing laboratory, university or college department, wholesale or retail organization, Federal, State, or local government agency, engineering or research and development establishment, ad hoc association, or any company or person, within 30 days after the date of publication of the notice:

(i) To submit to the Commission an existing standard as the proposed consumer product safety standard; or

(ii) To offer to develop a proposed consumer product safety standard.

(5) Include, to the extent known, any requirement for additional information which is to be submitted with either an existing standard or a standard to be developed by an offeror.

(6) Specify the period of time during which the standard is to be developed and submitted to the Commission.

(b) The Commission will, for the purpose of providing greater public awareness of its actions, issue a press release concerning the initiation of the proceeding. The press release will summarize the information contained in the FEDERAL REGISTER notice, including the invitation to any interested organization or person to submit an existing standard or to offer to develop a proposed consumer product safety standard.

§ 1105.4 Submission of existing standards.

(a) Any standards-writing organization, trade association, consumer organization, technical society, testing laboratory, university or college department, wholesale or retail organization, Federal, State, or local government agency, engineering or research and development establishment, ad hoc association, or any company or person may submit a standard previously issued or adopted by any private or public organization or agency, domestic or foreign, or any international standards organization, that contains safety-related requirements which the person believes would be adequate to prevent or reduce the unreasonable risks of injury associated with the product identified by the Commission.

(b) Any submission of an existing standard should:

(1) To the extent possible, meet the requirements for standards developed by offerors as specified in § 1105.8; and

(2) Be accompanied by a description of the procedures used to develop the standard and a listing of the persons and organizations that participated in the development and approval of the standard.

§ 1105.5 Submission of offers.

(a) Any standards-writing organization, trade association, consumer organization,

technical society, testing laboratory, university or college department, wholesale or retail organization, Federal, State, or local government agency, engineering or research and development establishment, ad hoc association, or any company or person may submit an offer to develop a proposed consumer product safety standard. Each offer shall include a detailed description of the procedure the offeror will utilize in developing the standard. Each offer shall also include:

(1) A description of the plan the offeror will use to give adequate and reasonable notice to interested persons (including individual consumers, manufacturers, distributors, importers, testing laboratories, Federal and State agencies, educational institutions, and consumer organizations), of their right and opportunity to participate in the development of the standard;

(2) A description of the method whereby interested persons who have responded to the notice may participate, either in person or through correspondence, in the development of the standard; and

(3) A realistic estimate of the time required to develop the standard, including a detailed schedule for each phase of the standard development period.

(b) Each offeror shall submit with the offer the following information to supplement the description of the standard development procedure:

(1) A statement listing the number and occupations of the personnel, including voluntary participants, the offeror intends to utilize in developing the standard and the educational and experience qualifications of these personnel relevant to the development of the standard; and

(2) A statement describing the type of facilities or equipment which the offeror plans to utilize in developing the standard and how the offeror plans to gain access to the facilities or equipment.

(c) Persons who are not members of an established organization may form an organization for the express purpose of submitting offers and developing standards. These organizations are referred to as "ad hoc associations." An offer by an ad hoc association may be submitted by an individual member if the offer states that it is submitted on behalf of the members of the association. Prior to acceptance of an offer from an ad hoc association, the individual member submitting the offer shall submit to the Commission a notarized copy of a power of attorney from each member of the association authorizing the individual member to submit an offer on behalf of each other member.

§ 1105.6 Acceptance of offers.

(a) If the Commission does not publish an existing standard as a proposed consumer product safety rule, the Commission will, normally within 60 days of the date of publication of the notice of proceeding, accept one or more offers to develop a proposed consumer product safety standard if it determines that an offeror is technically competent, is likely to develop an appropriate standard within the period specified in the notice of proceeding or within the period determined by the Commission to be necessary

and appropriate for the development of the standard, and will comply with all of the requirements of the Commission for the development of the standard. An offeror will be considered to have technical competence if the offer submitted indicates to the satisfaction of the Commission (1) that the offeror has demonstrated a thorough understanding of the problem, (2) that the offeror has provided a rational approach to the solution of that problem, and (3) that persons with appropriate technical expertise or experience will be utilized in the development of the standard either as employees, consultants, or volunteers.

(b) In accepting an offer to develop a standard, the Commission may require a modification of the offer as a condition of acceptance.

(c) The Commission shall publish in the FEDERAL REGISTER the name and address of each person whose offer it accepts and a summary of the terms of each accepted offer including the date established for the submission of the standard.

(d) If the Commission does not publish an existing standard as the proposed consumer product safety rule and does not accept an offer to develop a proposed consumer product safety rule, the Commission may independently develop a proposed consumer product safety rule. Notice of this decision will be published in the FEDERAL REGISTER.

(e) The Commission, at or near the time of the FEDERAL REGISTER acceptance notice, will issue a press release which:

(1) Identifies each person whose offer has been accepted;

(2) Summarizes the terms of each accepted offer including the date established for the submission of the standard; and

(3) Invites all interested persons to participate in the development of the standard and informs them of how they may participate.

(f) In any case in which the sole offeror whose offer is accepted is the manufacturer, distributor, or retailer of the consumer product proposed to be regulated by the consumer product safety standard, the Commission may independently proceed to develop proposed standards during the development period.

(g) All persons submitting offers to develop standards, whose offers have not been accepted, will be notified of this fact in writing by the Commission.

§ 1105.7 Development of recommended consumer product safety standards.

(a) The offeror shall comply with all Commission requirements for the development of standards and with all terms of the acceptance and shall cooperate with Commission liaison personnel assigned to monitor the development of the standard.

(b) In developing a standard, the offeror shall use the method agreed upon for interested persons to participate in the development of the standard and shall fully consider all of the suggestions and contributions of the respective participants. The offeror, after considering all suggestions and contributions, shall draft a standard. The draft standard shall be sent to all participants and to other appropriate persons (including a

representative number of manufacturers or wholesalers and importers of the product proposed to be regulated and consumers) for their review and concurrence. Unanimity among all participants and appropriate persons shall not be a prerequisite to the submission by the offeror to the Commission of a standard which, in the offeror's judgment, optimally meets the terms of the offer accepted by the Commission.

The offeror shall maintain complete written records of the development of the standard. These records shall include:

(1) The names, addresses, and titles, if any, of all persons contacting the offeror for the purpose of participating in the development of the standard;

(2) All written comments and any other information submitted by any person in connection with the development, including the dissenting views of participants, and comments and information with respect to the need for the standard;

(3) An evaluation by the offeror of all of the comments received by the offeror during the development of the standard;

(4) A statement of the economic and environmental factors considered during the development of the standard; and

(5) Records of all other matters relevant to the development and evaluation of the standard.

These records shall be submitted to the Commission at the termination of the development period. The Commission will make these records available for public inspection and will supply copies upon request, subject to the provisions of the Freedom of Information Act (5 U.S.C. 552), section 6 of the Consumer Product Safety Act (15 U.S.C. 2055), and regulations relating to the availability of Commission records.

(d) The offeror shall provide progress reports as may be required by the Commission. The offeror shall cooperate fully with the Commission and permit the inspection of its facilities and developmental activities by duly authorized representatives of the Commission for the purpose of determining whether satisfactory progress is being made toward the completion of the standard. The offeror shall be considered to be making satisfactory progress if the Commission concludes that the standard may reasonably be expected to be completed in accordance with the provisions of the accepted offer by the end of the development period.

(e) If it appears to the Commission that an offeror is not making satisfactory progress, the offeror will be given the opportunity to demonstrate ability and willingness to complete the development of the standard by the end of the development period. If the offeror cannot so demonstrate, the Commission, after due notice, may terminate the offeror's role in the development process and require the offeror to submit to the Commission all information, records, and documents which pertain to the development of the standard. If the Commission terminates the offeror's role in the development process, the offeror shall remit all funds contributed by the Commission which have not been expended.

(f) If the Commission determines that no offeror whose offer was accepted is able to make satisfactory progress, the Commission may terminate the development proceeding, publish a notice of the decision to terminate in the *FEDERAL REGISTER*, and independently develop a proposed standard or contract with third parties for the development of a proposed standard.

(g) The offeror shall submit with the standard, test instruments or devices constructed or acquired to perform compliance tests if the Commission determines that these instruments or devices are necessary for the evaluation of the standard. In such a case, the instrument or device shall be sold to the Commission at the offeror's cost. If the Commission does not purchase the instrument or device, or if the offeror does not loan the instrument or device to the Commission, the offeror shall submit detailed descriptions or plans and specifications for the acquisition or construction of these instruments or devices.

§ 1105.8 Recommended consumer product safety standards developed by offerors.

(a) Recommended standards shall be submitted in the format prescribed by the Commission. They shall be supported by test data or other documents or materials which the Commission requires. Recommended standards shall also, where the Commission considers it to be appropriate, contain suitable test methods and reasonable testing programs. Test methods for the measurement of compliance with proposed standards shall be reasonably capable of being performed by persons subject to the act or by private testing facilities. Test programs shall, where the Commission considers it to be appropriate and so states in the *FEDERAL REGISTER* notice of the acceptance of the offer, include sampling plans which define sample size, sampling procedures, acceptance and rejection numbers and/or criteria, and the quantities of products to be represented by each acceptance test.

(b) A recommended standard must be suitable for promulgation under the act. To be considered suitable, a standard shall be written in a manner appropriate for use as a federal mandatory standard as specified in the format established by the Commission. Recommended standards shall consist of one or more of any of the following:

(1) Requirements as to those aspects of performance, composition, contents, design, construction, finish, or packaging which may affect the safety of the consumer product or products involved.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions.

(c) Each requirement of a standard shall be supported by:

(1) An analysis demonstrating that the requirement is reasonably necessary to prevent or reduce the unreasonable risks of injury identified in the notice of proceeding; and

(2) A statement explaining why the requirement is in the public interest.

(d) Each requirement of a standard, other than requirements relating to labeling, warnings, or instructions, shall, whenever feasible, be expressed in terms of performance. Whenever the requirements are not expressed in terms of performance, an explanation shall be provided to support the use of the nonperformance requirements.

(e) The offeror shall, in submitting a recommended standard, include data and information to demonstrate that compliance with the standard would be technologically practicable. The offeror shall also submit, to the extent that it can reasonably be obtained, data and information on the potential economic effect of the standard, including the potential effect on international trade. The economic information should include data indicating the types and classes as well as the approximate number of consumer products which would be subject to the standard, the probable effect of the standard on the utility, cost, and availability of the products, and any potential adverse effects of the standard on competition or disruption or dislocation of manufacturing and other commercial practices. Further, the offeror shall include information, to the extent that it can reasonably be obtained, concerning the potential environmental impact of the standard.

§ 1105.9 Contributions to the offeror's cost.

(a) The Commission may, in accepting an offer, agree to contribute to the offeror's cost in developing a proposed consumer product safety standard in any case in which the Commission determines:

(1) That a contribution is likely to result in a more satisfactory standard than would be developed without a contribution; and

(2) That the offeror is financially responsible.

(b) In order to be eligible to receive a financial contribution, the offeror, in addition to furnishing the information required under § 1105.5, must submit:

(1) A request for a specific contribution with an explanation as to why the contribution is likely to result in a more satisfactory standard than would be developed without a contribution;

(2) A statement asserting that the offeror will employ an adequate accounting system (one in accordance with generally accepted accounting principles) to record standard development costs and expenditures; and

(3) A request for an advance payment of funds, if necessary to enable the offeror to meet operating expenses during the development period.

(c) The offeror should normally finance at least 5 percent of the total project cost. If the offeror, however, has little or no nonfederal sources of funds from which to make a cost contribution, the requirement for cost sharing may be waived by the Commission.

(d) The Commission, in publishing the terms of the accepted offer, shall include a statement of the purpose and amount of the Commission's contribution.

(e) The offeror whose offer has been accepted shall, for a period of 3 years after final payment under the development agreement, maintain records which fully disclose the total cost and expenditures for the project, and such other records which will facilitate an effective audit. The Commission and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records relevant to the development of the standard.

(f) The Commission, based upon a finding after an informal hearing, that all or part of the Commission's contribution has been or is being misused, may seek reimbursement of that part of the contribution which has been or is being misused, and shall have the right, after due notice, to terminate the development agreement and to discontinue payments towards the contribution. For the purpose of this part, "misuse of a contribution" means a use other than that agreed upon in writing by the parties.

(g) The items of cost toward which the Commission may contribute are those allowable direct and indirect costs allocable to the development project (as set forth in the applicable subparts of 41

CFR Part 1-15, Federal Procurement Regulations). The Commission may contribute to the costs of assuring adequate consumer participation in the development of the standard.

(h) The items of cost toward which the Commission will not contribute include:

(1) Costs for the acquisition of any interest in land or buildings; however, the Commission may contribute toward the lease or rental of land or buildings;

(2) Costs for the payment of salaries in excess of the salaries paid by the offeror to individuals at the time immediately preceding the offer;

(3) Costs for the payment of items in excess of the offeror's actual cost;

(4) Costs for items having a useable lifespan in excess of the development period, except that a contribution may be made toward the proportionate value of the item during the development period determined by subtracting the item's estimated market value at the termination of the development period from the actual acquisition cost (the cost of items purchased by the Commission under § 1105.7(g) cannot be included in the Commission's contribution); and

(5) Costs determined not to be allowable under generally accepted ac-

counting principles and practices or 41 CFR Part 1-15, Federal Procurement Regulations.

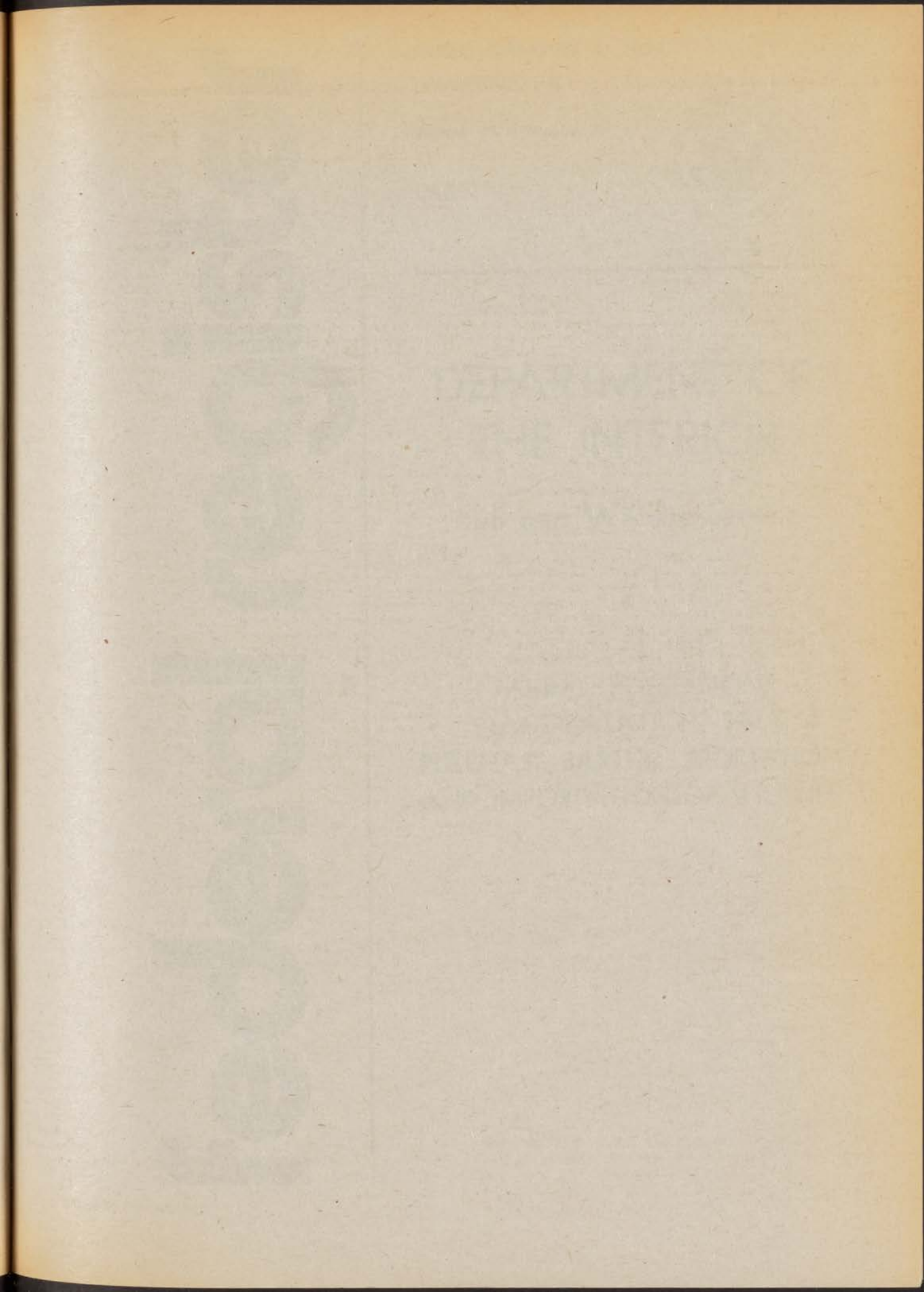
(i) Offerors who have received contributions from the Commission shall submit to the Commission a full accounting of these contributions and shall remit all amounts not expended within 60 calendar days after the offeror submits the standard.

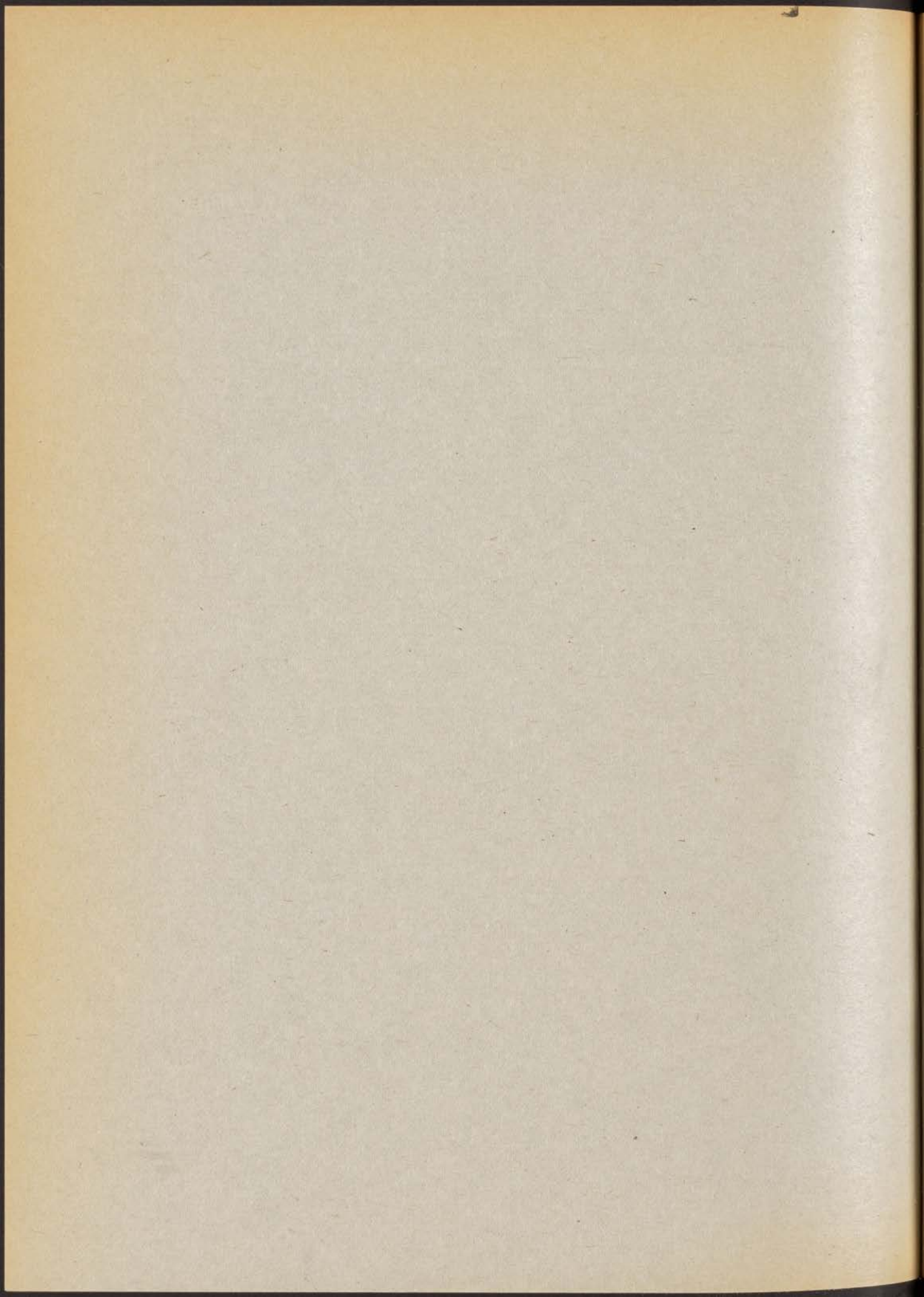
Interested persons are invited to submit, on or before February 4, 1974, written comments regarding this proposal. Comments and any accompanying material should be submitted, preferably in 5 copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, tenth floor, 1750 K Street NW., Washington, D.C., during working hours Monday through Friday.

Dated: December 19, 1973.

SADYE E. DUNN,
Secretary, Consumer Product
Safety Commission.

[FR Doc.74-37 Filed 1-3-74;8:45 am]





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PART III



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service



**TAKING, POSSESSION,
TRANSPORTATION, SALE,
PURCHASE, BARTER, EXPORTATION
AND IMPORTATION OF WILDLIFE**

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

By notice of proposed rulemaking published in the FEDERAL REGISTER of April 25, 1973 (38 FR 10208-10234), it was proposed to revise and restructure Subchapter B of Chapter I of Title 50.

Since evaluation of comments, suggestions, and objections to the proposed rulemaking of April 25, 1973, referred to above took considerable time, it was decided to adopt the proposed changes in Subchapter B in segments, rather than republish it in its entirety. Further it was necessary to publish additional proposed rulemaking as substantive changes were developed.

Accordingly, in the FEDERAL REGISTER on July 5, 1973 (38 FR 17841), Subchapter B of 50 CFR, Chapter One, was retitled and Part 20—Migratory Bird Hunting, was added reserving Subparts A through K and M, and publishing only Subpart L—Administrative and Miscellaneous Provisions. Subpart K—Annual Season, Limit, and Shooting Hours Schedules, was published in part in the FEDERAL REGISTER on August 1, 1973, 38 FR 20456).

In the FEDERAL REGISTER on August 15, 1973 (38 FR 22015), the remainder of Part 20 was adopted and Subpart L republished. Subpart K of Part 20 was not republished as it was to be further modified. In this same FEDERAL REGISTER publication, Part 10 was retitled "General Provisions," amended, and adopted. In summary, final rulemaking to date has retitled Subchapter B and adopted new Parts 10 and 20. The rulemaking contained herein will complete the restructuring and revision of Subchapter B with the exceptions indicated below. This rulemaking adopts new titles for the following parts and completely amends such parts to read as set forth herein:

- Part 11—Civil Procedures.
- Part 12—Seizure and Forfeiture Procedures.
- Part 13—General Permit Procedures.
- Part 14—Import, Export and Interstate Transportation of Wildlife.
- Part 15—Feather Import Quotas.
- Part 16—Injurious Wildlife.
- Part 17—Endangered Wildlife.
- Part 19—Airborne Hunting.
- Part 21—Migratory Bird Permits.
- Part 22—Eagle Permits.

This rulemaking differs from the proposed rulemaking of April 25, 1973, referred to above, and other proposed rulemakings as set forth below, in several ways which are, in the main, conforming, editorial, and generally cosmetic in nature. However, other substantive changes also have been made and are generally discussed below.

Part 10, General Provisions—Regulations made effective on August 15, 1973, established a rule of construction applicable to regulations then or thereafter published in 50 CFR Subchapter B,

that such regulations are to be prospectively applied. 50 CFR 10.4 (38 FR 22015). To clarify that rule as applied to appeal provisions of the civil penalty procedures set forth in Part 11 of these regulations (§ 11.25), it is necessary that § 10.4(a) be amended at this time.

Part 11—When Part 11 was proposed on April 25, it contained a Subpart C—Holding, Return, and Disposal of Seized Property. It is now determined to create a new Part 12 for these rules. The April 25th proposal did not address the question whether intra-departmental appeals from the decisions of administrative law judges should be as a matter of right, or whether they should be granted at the discretion of the appellate officials. The Department recognizes the necessity for arriving at standards for review of an administrative law judge's decision and for establishing appropriate grounds for appeal. Until such time as those standards and grounds are arrived at, the Department has adopted a discretionary appeal by "certiorari" provision. [See § 11.25.]

Part 12—As indicated above, Part 12 has been established to deal with the seizure and forfeiture procedures formerly proposed in Part 11. Subpart C of this Part has been reserved to provide for later rules dealing with forfeitures under the Bald Eagle Protection Act and the Fish and Wildlife Act of 1956.

Part 13—Part 12 in the April 25th notice of proposed rulemaking has been redesignated as Part 13 to allow for the new Part 12—Seizure and Forfeiture Procedures. Part 13 provides uniform rules and procedures relative to the application, issuance, renewal, conditions, revocations, and general administration of permits issuable pursuant to this subchapter. A change in the April proposal was made to accommodate those unforeseen situations which would make it impossible to submit an application in writing for a permit. This is accomplished by adding paragraph (c) to § 13.21, which authorizes issuance of a permit if certain specified requirements are met. Another change is in § 13.26(a)(1) relative to the right of succession of permitted activities. The proposed rule would have provided for succession to pass to the surviving spouse or child, among others. It was decided that better permit administration would be realized if that provision was reworded to exclude the surviving spouse or child, but authorize executor, administrator, or other legal representative, to continue the permitted activity for an interim period during the probate of the estate.

Also § 13.51, relative to the suspension or revocation of a permit (except in cases of willful violation or in cases where public health or safety requires), has been reworded to conform more closely with 5 U.S.C. 558.

Part 14—This part was originally proposed as Part 13 and has been moved to Part 14 to make room for a new Part 12 as discussed above. Previously, the regulations required that documentation from the country of origin or the country of export must accompany shipments of wildlife if foreign law or regulations

restrict taking, possession, transportation, exportation, or sale of such wildlife, in order to establish that the foreign law and regulations have not been violated. Appropriate documents may be required by the owner, importer, or consignee to show that such laws or regulations have not been violated. This change will expedite shipments and is made in the interest of the welfare of the wildlife and to avoid undue delays. In cases where an import permit is not required by this Subchapter, appropriate documents may be required, under the new § 14.41, of the owner, importer, or consignee to show that such laws or regulations of the foreign country have not been violated. When an import permit is required under this subchapter, the compliance with foreign law must have been demonstrated prior to the issuance of the permit and the permit must have been issued prior to importation.

Part 15—In the April 25th proposal this part was designated Part 14. It is now adopted as Part 15 to allow for new Part 12 as discussed above. No substantive changes, differing from the proposal, are contained in this part.

Part 16—A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 20, 1973 (38 FR 34970) to completely revise Part 16. The preamble to that proposed rulemaking fully sets forth the scope and purpose of the proposed revisions and the reasons therefor. At least 60 days will be provided during which the interested public may submit written data, views, or arguments with respect thereto. Also, at least 3 public hearings will be held, providing opportunity for submission of oral or written comments. Specific dates, times, and location of each of these meetings will be published in the FEDERAL REGISTER and will allow at least 60 days between the date of the notice and the first such meeting. However, in order to adopt the new structure and modifications of Subchapter B as contained herein, it is necessary at this time to recodify former Part 13—Importation of Wildlife or Eggs Thereof, to Part 16—Injurious Wildlife. In addition, current Part 13 is hereby restructured and amended to conform with the other provisions of Subchapter B. No substantive changes are made in this part from the rules as they previously existed in Part 13—Importation of Wildlife or Eggs Thereof.

Part 17—An additional requirement to § 17.23 provides for the inclusion, in an application for a permit, of a description of the type, size, and construction of the container, and arrangements for feeding, watering, and otherwise caring for wildlife in transit; and of the arrangements for caring for the wildlife upon importation into the United States.

Part 18—Regulations adopted by publication in the FEDERAL REGISTER on December 21, 1972 (37 FR 28173-28177), remain in effect, and are not affected by their publication; except for Subpart F, which is hereby revoked. Procedures contained in former Subpart F appear in Parts 11 and 12. Proposed amendments to Part 18 were published in the FEDERAL

REGISTER on August 16, 1973 (38 FR 22143-22149), and the comment period on these proposals has expired. However, evaluation of the comments has not been completed and any substantive changes in Part 18 will be made in a later publication.

Part 19—By publication in the FEDERAL REGISTER of August 28, 1973 (38 FR 22967), notice was given that a new Part 19—Airborne Hunting, was proposed to be added and comments were invited to October 19, 1973. All comments and other relevant matter received having been considered, it is determined that Part 19 should be added at this time. Only minor changes in wording have been made with respect to permits which will facilitate administration and understanding of this part.

Part 21—By publication in the FEDERAL REGISTER of October 19, 1972 (37 FR 22633), an interim rule was established concerning falconry. That rule has remained in effect and it has been determined to codify that rule on an interim basis in § 21.28 Falconry permits. In addition, by publication in the FEDERAL REGISTER of July 30, 1973 (38 FR 20264), notice was given that it was proposed to add to Subpart C of Part 21 regulations concerning permits for falconry. This was proposed in § 21.28 Falconry permits. Subsequently, the comment period was extended to September 30, 1973. Because of the wide interest in falconry and falconry permit regulations, it has been determined that a revised proposed rulemaking should be published and additional comments concerning that revised proposed rulemaking should be invited to give the interested public ample opportunity to participate in the rulemaking process. Accordingly, the text of § 21.28 Falconry permits, is hereby adopted to include the current existing rule. However, it should be recognized that further proposed rulemaking will be forthcoming to provide for a system of falconry permits.

Part 22—Because of the difference in statutory definitions, § 22.3 has been added in this Part to incorporate the definition of "take" in the Bald Eagle Protection Act. Also, § 22.23 is reworded to clarify procedures relative to deprecating golden eagles when relief is requested by the Governor of any State for the protection of domestic flocks and herds. Section 22.24 is reserved to provide for contemplated falconry regulations, which will be published at a later date. Accordingly,

PART 18—MARINE MAMMALS

Subpart F [Revoked]

1. Subpart F—Procedures for Civil Violations, of Part 18—Marine Mammals, is hereby revoked.

PART 10—GENERAL PROVISIONS

2. Part 10—General Provisions, is revised by amending section 10.4(a) to read as follows:

§ 10.4 When regulations apply.

(a) *Civil penalty proceedings.* Except as otherwise provided in section 11.25, the

civil penalty assessment procedures contained in this Subchapter B shall apply only to any proceeding instituted by notice of violation dated subsequent to the effective date of these regulations, regardless of when the act or omission which is the basis of a civil penalty proceeding occurred.

3. All comments and other relevant material presented having been considered, Parts 11, 12, 13, 14, 15, 16, 17, 19, 21 and 22, are recodified, revised, amended and added to Chapter One, Subchapter B, Title 50 CFR as follows:

Part 11—Civil Procedures
Part 12—Seizure and Forfeiture Procedures
Part 13—General Permit Procedures
Part 14—Import, Export, and Interstate Transportation of Wildlife
Part 15—Feather Import Quotas
Part 16—Injurious Wildlife
Part 17—Endangered Wildlife
Part 18—Airborne Hunting
Part 21—Migratory Bird Permits
Part 22—Eagle Permits

PART 11—CIVIL PROCEDURES

Subpart A—Introduction

Sec.
11.1 Purpose of regulations.
11.2 Scope of regulations.
11.3 Filing of documents.

Subpart B—Assessment Procedure

11.11 Notice of violation.
11.12 Petitions for relief.
11.13 Decision by the Director.
11.14 Notice of assessment.
11.15 Request for a hearing.
11.16 Final administrative decision.
11.17 Payment of final assessment.

Subpart C—Hearing and Appeal Procedure

11.21 Commencement of hearing proceedings.
11.22 Appearance and practice.
11.23 Hearings.
11.24 Final administrative decision.
11.25 Appeals.
11.26 Reporting service.

AUTHORITY: Lacey Act, 83 Stat. 279-281, 18 U.S.C. 42-44; Bald Eagle Protection Act, sec. 2, 54 Stat. 251, 16 U.S.C. 668a; Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278, 16 U.S.C. 668cc-4; Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, 16 U.S.C. 1382.

Subpart A—Introduction

§ 11.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the assessment of civil penalties in connection with violations of certain laws and regulations enforced by the Bureau.

§ 11.2 Scope of regulations.

The regulations contained in this part apply only to actions arising under the following laws and regulations issued thereunder:

Lacey Act, 18 U.S.C. 43;
Bald Eagle Protection Act, 16 U.S.C. 668-668d;
Endangered Species Conservation Act of 1969, 16 U.S.C. 668cc-1 to 668cc-6; and Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1384 and 1401-1407.

§ 11.3 Filing of documents.

(a) Whenever a document or other paper is required to be filed under this

Part within a certain time, such document or paper will be considered filed as of the date of the postmark if mailed, or the date actually delivered to the office where filing is required. The time periods set forth in this Part shall begin to run as of the day following the date of the document or other paper.

(b) If an oral or written application is made to the Director up to 10 calendar days after the expiration of a time period established in this Part for the required filing of documents or other papers, the Director may permit a late filing within a fixed period where reasonable grounds are found for an inability or failure to file within the time period required. All such extensions shall be in writing. Except as provided in this subsection, no other requests for an extension of time may be granted.

Subpart B—Assessment Procedure

§ 11.11 Notice of violation.

(a) A notice of violation (hereinafter "notice"), shall be issued by the Director and served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to a civil penalty (the respondent). The notice shall contain: (1) A concise statement of the facts believed to show a violation, (2) a specific reference to the provisions of the statute or regulation allegedly violated, and (3) the amount of penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the case. The notice shall also advise the respondent of his right to file a petition for relief pursuant to § 11.12, or to await the Director's notice of assessment.

(b) The respondent shall have 45 days from the date of the notice of violation in which to respond. During this time he may:

(1) undertake informal discussions with the Director;

(2) accept the proposed penalty, or the compromise, if any, offered in the notice;

(3) file a petition for relief; or

(4) take no action, and await the Director's decision, pursuant to § 11.13.

(c) Acceptance of the proposed penalty or the compromise shall be deemed to be a waiver of the notice of assessment required by § 11.14, and of the opportunity for a hearing. Any counter offer of settlement shall be deemed a rejection of the proposed offer of compromise.

§ 11.12 Petition for relief.

If the respondent so chooses he may ask that no penalty be assessed or that the amount be reduced, and he may admit or contest the legal sufficiency of the charge and the Director's allegations of facts, by filing a petition for relief [hereinafter "petition"] with the Director at the address specified in the notice within 45 days of the date thereof. The petition shall be in writing and signed by the respondent. If the respondent is a corporation, the petition must be signed by an officer authorized to sign such documents. It must set forth in full the legal or other reasons for the relief.

§ 11.13 Decision by the Director.

Upon expiration of the period required or granted for filing of a petition for relief, the Director shall proceed to make an assessment of a civil penalty, taking into consideration information available to him and such showing as may have been made by the respondent, either pursuant to § 11.11 or § 11.12, or upon further request of the Director.

§ 11.14 Notice of assessment.

The Director shall notify the respondent by a written notice of assessment, by personal service or by registered or certified mail, return receipt requested, of his decision pursuant to § 11.13. He shall set forth therein the facts and conclusions upon which he decided that the violation did occur and appropriateness of the penalty assessed.

§ 11.15 Request for a hearing.

Except where a right to request a hearing is deemed to have been waived as provided in § 11.11, the respondent may, within 45 calendar days from the date of the notice of assessment referred to in § 11.14, file a dated, written request for a hearing with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. The request should state the respondent's preference as to the place and date for a hearing. The request must enclose a copy of the notice of violation and notice of assessment. A copy of the request shall be served upon the Director personally or by registered or certified mail, return receipt requested, at the address specified in the notice.

§ 11.16 Final administrative decision.

(a) Where no request for a hearing is filed as provided in § 11.15 the Director's assessment shall become effective and shall constitute the final administrative decision of the Secretary on the 45th calendar day from the date of the notice of assessment.

(b) If a request for a hearing is timely filed in accordance with § 11.15, the date of the final administrative decision in the matter shall be as provided in Subpart C of this part.

§ 11.17 Payment of final assessment.

When a final administrative decision becomes effective in accordance with this Part 11, the respondent shall have 20 calendar days from the date of the final administrative decision within which to make full payment of the penalty assessed. Payment will be timely only if received in Office of the Director during normal business hours, on or before the 20th day. Upon a failure to pay the penalty, the Solicitor of the Department may request the Attorney General to institute a civil action in the U.S. District Court to collect the penalty.

Subpart C—Hearing and Appeal Procedures**§ 11.21 Commencement of hearing procedures.**

Proceedings under this subpart are commenced upon the timely filing with

the Hearings Division of a request for a hearing, as provided in § 11.15 of Subpart B. Upon receipt of a request for a hearing, the Hearings Division will assign an administrative law judge to the case. Notice of assignment will be given promptly to the parties, and thereafter, all pleadings, papers, and other documents in the proceeding shall be filed directly with the administrative law judge, with copies served on the opposing party.

§ 11.22 Appearance and practice.

(a) Subject to the provisions of 43 CFR 1.3, the respondent may appear in person, by representative, or by counsel, and may participate fully in these proceedings.

(b) Department counsel designated by the Solicitor of the Department shall represent the Director in these proceedings. Upon notice to the Director of the assignment of an administrative law judge to the case, said counsel shall enter his appearance on behalf of the Director and shall file all petitions and correspondence exchanged by the Director and the respondent pursuant to Subpart B of this Part, which shall become part of the hearing record. Thereafter, service upon the Director in these proceedings shall be made to his counsel.

§ 11.23 Hearings.

(a) The administrative law judge shall have all powers accorded by law and necessary to preside over the parties and the proceedings and to make decisions in accordance with 5 U.S.C. Sections 554-557. Failure to appear at the time set for hearing shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the record made at the hearing. Copies of the transcript may be inspected or copied.

(b) The transcript of testimony, the exhibits, and all papers, documents, and requests filed in the proceedings, shall constitute the record for decision. The judge will render a written decision upon the record, which shall set forth his findings of fact and conclusions of law, and the reasons and basis therefor, and an assessment of a penalty, if any.

§ 11.24 Final administrative action.

Unless a notice of request for an appeal is filed in accordance with § 11.25 of this Subpart C, the administrative law judge's decision shall constitute the final administrative determination of the Secretary in the matter and shall become effective 30 calendar days from the date of the decision.

§ 11.25 Appeal.

(a) Either the respondent or the Director may seek an appeal from the decision of an administrative law judge rendered subsequent to January 1, 1974, by the filing of a "Notice of Request for Appeal" with the Director, Office of Hearings and Appeals, United States Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 calendar days of the date of the administrative law judge's decision. Such notice shall be accompanied by

proof of service on the administrative law judge and the opposing party.

(b) Upon receipt of such a request, the Director, Office of Hearings and Appeals, shall appoint an ad hoc appeals board to determine whether an appeal should be granted, and to hear and decide an appeal. To the extent they are not inconsistent herewith, the provisions of Subpart G of the Department Hearings and Appeals Procedures in 43 CFR Part 4 shall apply to appeal proceedings under this Subpart. The determination of the board to grant or deny an appeal, as well as its decision on the merits of an appeal, shall be in writing and become effective as the final administrative determination of the Secretary in the proceeding on the date it is rendered, unless otherwise specified therein.

§ 11.26 Reporting service.

Copies of decisions in civil penalty proceedings instituted under statutes referred to in Subpart A of this Part and rendered subsequent to June 3, 1970, may be obtained by letter of request addressed to the Director, Office of Hearings and Appeals, United States Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Fees for this service shall be as established by the Director of that Office.

PART 12—SEIZURE AND FORFEITURE PROCEDURES**Subpart A—Introduction**

- Sec.
12.1 Purpose of regulations.
12.2 Scope of regulations.

Subpart B—Holding, Bonding, and Return of Certain Wildlife or Other Property

- 12.11 Notification of seizure.
12.12 Seizure by Customs.
12.13 Bonded release.
12.14 Return of seized wildlife or other property.
12.15 Abandonment provisions.

Subpart C—[Reserved]

AUTHORITY: Lacey Act, 83 Stat. 279-281 (16 U.S.C. 42-44); Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278 (16 U.S.C. 668cc-4); Bald Eagle Protection Act, sec. 2, 54 Stat. 251 (16 U.S.C. 668a); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042 (16 U.S.C. 1382); Fish and Wildlife Act of 1956, sec. 13, 85 Stat. 480, as amended, 86 Stat. 905 (16 U.S.C. 742-1).

Subpart A—Introduction**§ 12.1 Purpose of regulations.**

The regulations in this part provide rules and procedures for the seizure, holding, bonding, abandonment, and forfeiture of wildlife and other property, which under certain laws enforced by the Bureau are subject to seizure and forfeiture.

§ 12.2 Scope of regulations.

(a) The regulations contained in Subpart B of this Part apply only to actions arising under the following laws and regulations issued thereunder:

Lacey Act, 18 U.S.C. 43;
Endangered Species Conservation Act of 1969, 16 U.S.C. 668cc-1 to 668cc-6; and Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1384 and 1401-1407.

(b) The regulations contained in Subpart C of this Part apply only to actions arising under the following laws and regulations issued thereunder:

Bald Eagle Protection Act, 16 U.S.C. 668-668d; and
Fish and Wildlife Act of 1956, 16 U.S.C. 741j-1.

Subpart B—Holding, Bonding, and Return of Certain Wildlife or Other Property

§ 12.11 Notification of seizure.

Except where the owner or consignee is personally notified or seizure is made pursuant to a search warrant, the Director shall, as soon as practicable following his seizure or other receipt of seized wildlife or other property, mail a notification of seizure by registered or certified mail, return receipt requested, to the owner or consignee, if known. Such notification shall describe the seized wildlife or other property, and shall state the time, place, and reason for the seizure.

§ 12.12 Seizure by Customs.

Any authorized employee or officer of the U.S. Customs Service who has seized any wildlife or other property shall deliver such seizure to the appropriate Special Agent in Charge (See § 10.22 of this subchapter), or his designee, who shall either hold such seized wildlife or other property or arrange for its proper handling and care.

§ 12.13 Bonded release.

The Director may, in his sole discretion, accept an appearance bond or other security in place of wildlife or other property seized. Said bond or security may contain such additional conditions as may be appropriate. Such bond or security may be in an amount up to \$10,000 per offense and shall only be allowed where the Director determines either that the health or safety of any wildlife so requires, or that the release of the seized wildlife or other property would not frustrate the purposes of the statute.

§ 12.14 Return of seized wildlife or other property.

If, at the conclusion of the appropriate proceedings, the seized wildlife or other property is to be returned to the owner or consignee, the Director shall issue a letter or other document authorizing its return. This letter or other document shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized wildlife or other property. It shall also provide that upon presentation of the letter or other document and proper identification, the seized wildlife or other property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements.

§ 12.15 Abandonment provisions.

When any wildlife or other property is subject to seizure and forfeiture, a

blank assent to forfeiture form (Customs Form 4607, or a similar Bureau form) may be given or sent, with the notification required by § 11.11 or by § 12.11, to the owner thereof. The owner may voluntarily abandon the wildlife or other property to the Government by executing and returning the assent to forfeiture form. Such abandonment will be considered by the Director in the disposition of the case, and may be the basis for the compromise of any proposed assessment of a civil penalty under Part 11 of this Subchapter B.

Subpart C—[Reserved]

PART 13—GENERAL PERMIT PROCEDURES

Subpart A—Introduction

- Sec. 13.1 General.
- 13.2 Purpose of regulations.
- 13.3 Scope of regulations.
- 13.4 Emergency variation from requirements.

Subpart B—Application for Permits

- 13.11 Procedure for obtaining a permit.
- 13.12 Information requirements on permit applications.
- 13.13 Abandoned application.
- 13.14 Insufficient fee.

Subpart C—Permit Administration

- 13.21 Issuance of permits.
- 13.22 Duration of permit.
- 13.23 Amendment of applications or permits.
- 13.24 Renewal of permit.
- 13.25 Permits not transferable; agents.
- 13.26 Right of succession by certain persons.
- 13.27 Change of mailing address.
- 13.28 Change in name.
- 13.29 Official endorsement of changes required.
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Subpart D—Conditions

- 13.41 Recall and amendment of permit during its term.
- 13.42 Permits are specific.
- 13.43 Alteration of permits.
- 13.44 Display of permit.
- 13.45 Filing of reports.
- 13.46 Maintenance of records.
- 13.47 Inspection requirement.

Subpart E—Violations of the Permit

- 13.51 Penalties for violation of a permit; notice; demonstration of compliance.

AUTHORITY—Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281 (16 U.S.C. 42-44); Black Bass Act, sec. 5, 44 Stat. 576, as amended, 46 Stat. 846 (16 U.S.C. 852c); Migratory Bird Treaty Act, sec. 3, 40 Stat. 755 (16 U.S.C. 704); Bald Eagle Protection Act, sec. 2, 54 Stat. 251 (16 U.S.C. 668a); Tariff Classification Act of 1962, 19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States;" 54 Stat. 251; Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278 (16 U.S.C. 668cc-4); Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480 (16 U.S.C. 742j-1); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042 (16 U.S.C. 1382); Act of August 31, 1951, Ch. 376, Title 5, section 501, 65 Stat. 290 (31 U.S.C. 483a).

Subpart A—Introduction

§ 13.1 General.

Each person intending to engage in an activity for which a permit is required by this Subchapter B shall, before commencing such activity, obtain a valid permit authorizing such activity. Each person who desires to obtain the permit privileges authorized by this Subchapter B must make application for such permit in accordance with the requirements of this Part 13 and the other regulations in this Subchapter B which set forth the additional requirements for the specific permits desired. If the activity for which permission is sought is covered by the requirements of more than one Part of this Subchapter B, the requirements of each Part must be met. If the information required for each specific permitted activity is included, one application will be accepted for all permits required, and a single permit will be issued.

§ 13.2 Purpose of regulations.

The regulations contained in this part will provide uniform rules and procedures for application, issuance, renewal, conditions, revocation, and general administration of permits issuable pursuant to this Subchapter B.

§ 13.3 Scope of regulations.

The provisions in this part are in addition to, and are not in lieu of, other permit regulations of this subchapter B and apply to all permits issued thereunder, including "Import and Marking" (Part 14), "Feather Imports" (Part 15), "Injurious Wildlife" (Part 16), "Endangered Wildlife" (Part 17), "Marine Mammals" (Part 18), "Migratory Birds" (Part 21), and "Eagles" (Part 22).

§ 13.4 Emergency variation from requirements.

The Director may approve variations from the requirements of this part when he finds that an emergency exists and that the proposed variations will not hinder effective administration of this Subchapter B, and will not be unlawful.

Subpart B—Application for Permits

§ 13.11 Procedure for obtaining a permit.

The following general procedures apply to applications for permits:

(a) **Forms.**—Applications must be submitted on an appropriate Bureau application form, except for those applications for which the regulations provide that a letter application which contains all necessary information, attachments, certification, and signature is acceptable. In no case will oral or telephoned applications be accepted.

(b) **Forwarding instructions.**—Applications must be submitted to the Special Agent in Charge of the Law Enforcement District in which the applicant resides, unless otherwise required in the section which applies to the specific permit desired. Persons not residing in the United States must submit applications to the Director. The address of such officials are listed in §§ 10.21 and 10.22 of this subchapter.

(c) *Time requirement.*—Applications must be received by the appropriate official of the Bureau at least 30 calendar days prior to the date on which the applicant desires to have the permit made effective. The Bureau will, in all cases, attempt to process applications in the shortest possible time, and most complete and properly addressed applications will be acted on within 30 days. The Bureau does not, however, guarantee 30 day issuance and some permits cannot be issued within that time period.

(d) *Permit fees.*—Applications must be accompanied by a permit fee in the form of a check or money order made payable to "Bureau of Sport Fisheries and Wildlife" for those permits for which a fee is shown on the following schedule. Such permit fees shall not be refunded if that application is denied.

Type of permit:	Fee
Feather import quota (part 15 of this subchapter):	
Importation or entry.....	\$10
Marine mammals permits (part 18 of this subchapter):	
Scientific research.....	Individual basis.
Public display.....	Individual basis.

§ 13.12 Information requirements on permit applications.

(a) *General information required for all permit applications.*—All applications for permits must contain the following information:

(1) Applicant's name, mailing address, and phone number;

(2) Where the applicant is an individual, his date of birth, height, weight, color of hair, color of eyes, and sex; and business or institutional affiliation, if any, having to do with the wildlife to be covered by the permit;

(3) Where the applicant is a corporation, firm, partnership, institution, or agency, either private or public, the name and address of the president or principal officer;

(4) Location where the permitted activity is to be conducted;

(5) Part and section of this subchapter B under which the permit is requested and such additional information and justification, including supporting documents from appropriate authorities, as required by that section (Paragraph (b) of this section contains a list of sections of this subchapter B where the additional information needed on applications for various permits may be found.)

(6) Where the permitted activity involves an importation from any foreign country which restricts the taking, possession, transportation, exportation or sale of wildlife, the appropriate documentation, as indicated in § 14.42 of this subchapter;

(7) Certification in the following language:

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my

knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

(8) Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued;

(9) Date;

(10) Signature of the applicant; and

(11) Such other information as the Director determines relevant to the processing of the application.

(b) *Additional information required on permit applications.*—As stated in paragraph (a) (5) of this section certain additional information is required on all applications. These additional requirements may be found by referring to the section of this subchapter B cited after the type of permit for which application is being made:

Type of permit:	Section
Importation at nondesignated ports:	
Scientific.....	14.31
Deterioration prevention.....	14.32
Economic hardship.....	14.33
Marking of package or container:	
Symbol marking.....	14.83
Feather import quota:	
Importation or entry.....	15.21
Injurious wildlife:	
Importation or shipment.....	16.22
Endangered wildlife permits:	
Economic hardship.....	17.22
Zoological, educational, scientific or propagation.....	17.23
Marine mammals permits:	
Scientific research.....	18.31
Public display.....	18.31
Migratory bird permits:	
Import or export.....	21.21
Banding or marking.....	21.22
Scientific collecting.....	21.23
Taxidermist.....	21.24
Waterfowl sale and disposal.....	21.25
Special aviculturist.....	21.26
Special purpose.....	21.27
Falconry.....	21.28
Depredation control.....	21.41
Eagle permits:	
Scientific or exhibition.....	22.21
Indian religious use.....	22.22
Depredation control.....	22.23
Falconry purposes.....	22.24

§ 13.13 Abandoned application.

Upon receipt of an incomplete or improperly executed application, the applicant shall be notified of the deficiency in the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned and the permit fee shall not be returned.

§ 13.14 Insufficient fee.

Upon receipt of an application filed with an insufficient fee, or without fee where one is required, the application and any fee submitted will be returned to the applicant.

Subpart C—Permit Administration

§ 13.21 Issuance of permits.

(a) No permit may be issued prior to the receipt of a written application therefor, unless a written variation from the requirements, as authorized by § 13.4, is inserted into the official file of the Bureau. An oral or written representation of an employee or agent of the United

States Government, or an action of such employee or agent, shall not be construed as a permit unless it meets the requirements of a permit as defined in 50 CFR 10.12.

(b) Upon receipt of a properly executed application for a permit, the Director shall issue the appropriate permit unless—

(1) The applicant has been assessed a civil penalty as convicted of any civil or criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction, evidences a lack of responsibility;

(2) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application;

(3) The applicant has failed to demonstrate a valid justification for the permit and a showing of responsibility;

(4) The authorization requested potentially threatens a wildlife population, or

(5) The Director finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

(c) Each permit shall bear a serial number. Such number may be reassigned to the permittee to whom issued so long as he maintains continuity of renewal.

(d) The applicant shall be notified in writing of the denial of any permit request, and the reasons therefor. If authorized in the notice of denial, the applicant may submit further information, or reasons why the permit should not be denied. Such further submissions shall not be considered a new application. The final action by the Director shall be considered the final administrative decision of the Department.

§ 13.22 Duration of permit.

Permits shall entitle the person to whom issued to engage in the activity specified in the permit, within the limitations of the applicable statute and regulations contained in this subchapter B, for the period stated on the permit, unless sooner terminated.

§ 13.23 Amendment of applications or permits.

Where circumstances have changed so that an applicant or permittee desires to have any term or condition of his application or permit modified, he must submit in writing full justification and supporting information in conformance with the provisions of this part and the part under which the permit has been issued or requested. Such applications for modification are subject to the same issuance criteria as are original applications, as provided in § 13.21.

§ 13.24 Renewal of permit.

Where the permit is renewable and a permittee intends to continue the activity described in the permit during any portion of the year ensuing its expiration, he shall, unless otherwise notified in writing by the Director, file a request for permit renewal, together with a certified statement that the information in his

original application is still currently correct, or a statement of all changes in the original application, accompanied by any required fee at least 30 days prior to the expiration of his permit. Any person holding a valid renewable permit, who has complied with the foregoing provision of this section, may continue such activities as were authorized by his expired permit until his renewal application is acted upon.

§ 13.25 Permits not transferable; agents.

(a) Permits issued under this part are not transferable or assignable. Some permits authorize certain activities in connection with a business or commercial enterprise and in the event of any lease, sale, or transfer of such business entity, the successor must obtain a permit prior to continuing the permitted activity. However, certain limited rights of succession are provided in § 13.26.

(b) Except as otherwise stated on the face of a permit, any person who is under the direct control of the permittee, or who is employed by or under contract to the permittee for the purposes authorized by the permit, may carry out the activity authorized by the permit.

§ 13.26 Right of succession by certain persons.

(a) Certain persons, other than the permittee, are granted the right to carry on a permitted activity for the remainder of the term of a current permit provided they comply with the provisions of paragraph (b) of this section. Such persons are the following:

- (1) The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee; and
- (2) A receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(b) In order to secure the right provided in this section, the person or persons desiring to continue the activity shall furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity.

§ 13.27 Change of mailing address.

During the term of his permit, a permittee may change his mailing address without procuring a new permit. However, in every case notification of the new mailing address must be forwarded to the issuing official within 30 days after such change. This section does not authorize the change of location of the permitted activity for which an amendment must be obtained in accordance with § 13.23.

§ 13.28 Change in name.

A permittee continuing to conduct a permitted activity is not required to obtain a new permit by reason of a mere change in trade name under which a business is conducted or a change of name by reason of marriage or legal decree: *Provided*, That such permittee must furnish his permit to the issuing official for endorsement within 30 days from the date the permittee begins conducting the permitted activity under the new name.

§ 13.29 Official endorsement of changes required.

Any change in a permit must be made by endorsement of the Director or issuing officer. Any modification or change in an issued permit, other than those specifically provided for in this subpart, may be granted or denied in the discretion of the Director.

§ 13.30 Certain continuancy of activity.

A permittee who furnishes his permit to the issuing official for endorsement or correction in compliance with the provisions of this subpart may continue his operations pending its return.

§ 13.31 Discontinuance of activity.

When any permittee discontinues his activity, he shall, within 30 days thereof, mail his permit and a request for cancellation to the issuing officer, and said permit shall be deemed void upon receipt. No refund of any part of an amount paid as a permit fee shall be made where the operations of the permittee are, for any reason, discontinued during the tenure of an issued permit.

Subpart D—Conditions

§ 13.41 Recall and amendment of permit during its term.

Except for marine mammal permits (See Part 18), all permits are issued subject to the condition that the Bureau reserves the right to recall and amend the provisions of a permit for just cause at any time during its term. Such amendments take effect on the date of notification, unless otherwise specified.

§ 13.42 Permits are specific.

The authorizations on the face of a permit which set forth specific times, dates, places, methods of taking, numbers and kinds of wildlife, location of activity, authorize certain circumscribed transactions, or otherwise permit a specifically limited matter, are to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.

§ 13.43 Alteration of permits.

Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid. Unless specifically permitted on the face thereof, no permit shall be copied, nor shall any copy of a permit issued pursuant to this Subchapter B be displayed, offered for inspection, or otherwise used for any official purpose for which the permit was issued.

§ 13.44 Display of permit.

Any permit issued under this part shall be displayed for inspection upon request to the Director or his agent, or to any other person relying upon its existence.

§ 13.45 Filing of reports.

Permittees may be required to file reports of the activities conducted under the permit. Any such reports shall be filed not later than March 31 for the preceding calendar year ending December 31, or

any portion thereof, during which a permit was in force, unless the regulations of this subchapter B or the provisions of the permit set forth other reporting requirements.

§ 13.46 Maintenance of records.

From the date of issuance of the permit, the permittee shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of wildlife pursuant to such permit. Such records shall be kept current and shall include names and addresses of persons with whom any wildlife has been purchased, sold, bartered, or otherwise transferred, and the date of such transaction, and such other information as may be required or appropriate. Such records, unless otherwise specified, shall be entered in books, legibly written in the English language. Such records shall be retained for 5 years from the date of issuance of the permit.

§ 13.47 Inspection requirement.

Any person holding a permit under this subchapter B shall allow the Director's agent to enter his premises at any reasonable hour to inspect any wildlife held or to inspect, audit, or copy any permits, books, or records required to be kept by regulations of this subchapter B.

Subpart E—Violations of the Permit

§ 13.51 Penalties for violation of a permit, notice; demonstration of compliance.

(a) Any violation of the applicable provisions of this Subchapter, or of the statute under which the permit was issued, or a condition of the permit, may subject the permittee to the following penalties:

- (1) The penalty provided in the statute under which the permit was issued;
- (2) Temporary suspension of the permit for a specified period; and
- (3) Revocation of the permit. When revoked, permits must be surrendered to the Director on demand.

(b) Except in cases of willfulness or those in which the public health safety or interest requires, and prior to any suspension or revocation of a permit, the permittee shall be given:

- (1) Notice by the Bureau in writing of the facts or conduct which may warrant the suspension or revocation; and
- (2) Opportunity to demonstrate or achieve compliance with all permit requirements.

PART 14—IMPORT, EXPORT, AND INTERSTATE TRANSPORTATION OF WILDLIFE

Subpart A—Introduction

Sec.

- 14.1 Purpose of regulations.
- 14.2 Scope of regulations.
- 14.3 Definition.

Subpart B—Importation at Designated Ports

- 14.11 General restrictions.
- 14.12 Designated ports.
- 14.13 Emergency diversion.
- 14.14 In-transit shipments.
- 14.15 Personal and household effects.
- 14.16 Canadian and Mexican wildlife.
- 14.17 Oceanic sport fishermen.
- 14.18 Marine mammals.

- Sec.
 14.19 Imports into Alaska, Puerto Rico, or the Virgin Islands.
 14.20 Exceptions by permit.
 14.21 Shellfish and fishery products.
 14.22 Tropical, ornamental, and aquarium fish.

Subpart C—Designated Port Exception Permits

- 14.31 Permits to import wildlife at non-designated port for scientific purposes.
 14.32 Permits to import wildlife at nondesignated ports to minimize deterioration or loss.
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Subpart D—Foreign Documentation

- 14.41 Foreign documentation requirement.
 14.42 Definition of foreign documentation.
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Subpart E—Inspection and Clearance of Imports

- 14.51 Inspection of imported wildlife.
 14.52 Clearance of imported wildlife.
 14.53 Clearance procedure.
 14.54 Unavailability of Bureau agents.
 14.55 Exceptions to clearance requirements.

Subpart F—Declaration for Importation of Wildlife

- 14.61 Declaration requirement.
 14.62 Exceptions to declaration requirement.

Subpart G—Export of Wildlife to Mexico

- 14.71 Permit to export game mammals to the United Mexican States.

Subpart H—Marking Requirements for Certain Shipments

- 14.81 Marking package or container.
 14.82 Exceptions to the marking requirement.
 14.83 Symbol marking permit.

AUTHORITY: Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281 (18 U.S.C. 42-44); Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278 (16 U.S.C. 668cc-4); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042 (16 U.S.C. 1382); Eagle Act, sec. 2, 54 Stat. 251 (16 U.S.C. 668a); Act of August 31, 1951, Ch. 376, Title 5 section 501, 65 Stat. 280 (31 U.S.C. 483a); Black Bass Act, 44 Stat. 576, Sec. 5, as amended, 83 Stat. 281 (16 U.S.C. 852c).

Subpart A—Introduction

§ 14.1 Purpose of regulations.

The regulations contained in this Part provide uniform rules and procedures for the importation, exportation, and interstate transportation of wildlife.

§ 14.2 Scope of regulations.

The provisions in this part are in addition to, and are not in lieu of, other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife. (See also Part 13.)

§ 14.3 Definition.

In addition to definitions contained in Part 10 of this subchapter, and unless the context otherwise requires in this Part H: "Sport fishermen" means a person who takes fish for recreational purposes.

Subpart B—Importation at Designated Ports

§ 14.11 General restrictions.

Except as otherwise provided in this part, no person shall import or cause to be imported any wildlife into the United States at any place other than a Customs port of entry designated in § 14.12.

§ 14.12 Designated ports.

The following Customs ports of entry are designated for the importation of wildlife and shall be referred to hereinafter as "designated ports":

- New York, N.Y.;
- Miami, Fla.;
- Chicago, Ill.;
- San Francisco, Calif.;
- Los Angeles, Calif.;
- New Orleans, La.;
- Seattle, Wash.;
- Honolulu, Hawaii.

§ 14.13 Emergency diversion.

Wildlife which has been imported into the United States at any port or place other than a designated port solely as a result of a diversion due to an aircraft or vessel emergency may proceed as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful entry.

§ 14.14 In-transit shipments.

Wildlife destined for a point within or outside the United States may be imported into the United States at any port if such wildlife proceeds as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful entry.

§ 14.15 Personal and household effects.

(a) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage may be imported into the United States at any Customs port of entry. *Provided*, That this exception to the designated port requirement shall not apply to any raw or dressed fur, and green, salted or crusted hide or skin, game trophy, or to any item of endangered wildlife.

(b) Wildlife products or manufactured articles, including mounted game trophies or tanned hides, which are not intended for sale and are part of a shipment of the household effects of persons moving their residence to the United States may be imported at any Customs port of entry. *Provided*, That this exception to the designated port requirement shall not apply to any raw, or dressed fur, and green, salted or crusted hide or skin or to any item of endangered wildlife.

§ 14.16 Canadian and Mexican wildlife.

(a) Except for endangered or injurious wildlife, wildlife lawfully taken by U.S. sportsmen in Canada or Mexico, and imported for noncommercial purposes, may be imported at any Customs port of entry.

(b) In addition to the other exceptions contained in this part, wildlife, other than endangered or injurious wildlife, whose country of origin is Canada, or which was previously exported from the United States to Canada, may be imported into the United States at any of the following Customs ports of entry:

- State of Alaska—Tok Junction;
- State of Washington—Blaine, Sumas, Oroville;
- State of Idaho—Eastport;
- State of Montana—Sweetgrass, Raymond;
- State of North Dakota—Portal, Pembina, Dunseith;
- State of Minnesota—Noyes, International Falls, Grand Portage, Minneapolis-St. Paul;
- State of Michigan—Sault Sainte Marie, Detroit, Port Huron;
- State of Ohio—Cleveland;
- State of New York—Buffalo, Niagara Falls, Champlain;
- State of Vermont—Highgate Springs, Derby Line, Norton;
- State of Maine—Houlton, Calais;

or

- State of Massachusetts—Boston.
- In addition to the other exceptions contained in this part, wildlife, other than endangered or injurious wildlife, whose country of origin is Mexico, or which was previously exported from the United States to Mexico, may be imported into the United States at any of the following Customs ports of entry:

- State of California—Calexico, San Diego-San Ysidro;
- State of Arizona—Nogales, San Luis; or
- State of Texas—El Paso, Laredo, Brownsville.

§ 14.17 Oceanic sport fishermen.

Fish taken by sport fishermen on the high seas, or within the territorial seas or fisheries zones of any country may be imported into the United States at any port or place.

§ 14.18 Marine mammals.

Any person under the jurisdiction of the United States who has lawfully taken a marine mammal on the high seas and is authorized to import such marine mammal in accordance with the Marine Mammal Protection Act of 1972 and the regulations issued pursuant thereto (parts 18 and 216 of this title) may import such marine mammal at any port or place.

§ 14.19 Imports into Alaska, Puerto Rico, or the Virgin Islands.

In addition to the other exceptions contained in this part, wildlife, other than endangered or injurious wildlife, which is imported for final destination in Alaska, Puerto Rico, or the Virgin Islands may be imported through those Customs ports of entry named herein after for the respective State or territory:

- Alaska—Juneau, Anchorage, Fairbanks, Tok Junction;
- Puerto Rico—San Juan;
- Virgin Islands—San Juan, Puerto Rico.

§ 14.20 Exceptions by permit.

Wildlife may be imported into the United States at any Customs port of entry designated in the terms of a valid permit issued pursuant to subpart C of this part 14.

§ 14.21 Shellfish and fishery products.

Except for endangered wildlife, the following shellfish and fishery products, as further defined in the "Tariff Schedules of the United States," imported for commercial purposes, may enter the United States at any Customs port of entry:

- (a) Frogs (T.S.U.S. No. 106.60).
- (b) Frog meat (T.S.U.S. No. 107.65).
- (c) Fish, fresh, chilled, or frozen (T.S.U.S. Nos. 110.10-110.70)—trout and salmon to conform to § 14.61, concerning form 3-177, and part 16 of this subchapter, concerning injurious species.
- (d) Fish, dried, salted, pickled, smoked, or kippered (T.S.U.S. Nos. 111.10-111.92).
- (e) Fish in airtight containers (T.S.U.S. Nos. 112.01-112.94).
- (f) Other fish products (T.S.U.S. Nos. 113.01-113.60).
- (g) Shellfish (T.S.U.S. Nos. 114.01-114.55).
- (h) Fish oils (T.S.U.S. Nos. 177.02-177.26).
- (i) Sod oil (T.S.U.S. No. 178.05).
- (j) Products of American fisheries (T.S.U.S. Nos. 180.00-180.20).
- (k) Edible preparations (T.S.U.S. Nos. 182.05, 182.11, 182.48, 182.50).
- (l) Animal feeds (T.S.U.S. Nos. 184.54, 184.55).
- (m) Pearls (T.S.U.S. Nos. 741.05, 741.06).
- (n) Coral (T.S.U.S. No. 741.15).

§ 14.22 Tropical, ornamental and aquarium fish.

In addition to the other exceptions contained in this part, other than endangered or injurious wildlife, tropical, ornamental, and aquarium fish may be imported at the Customs port of entry at Tampa, Fla.

Subpart C—Designated Port Exception Permits

§ 14.31 Permits to import wildlife at nondesignated port for scientific purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing a scientist to import wildlife, other than endangered wildlife, for scientific purposes at any Customs port of entry. Such permits may authorize a single importation, a series of importations, or importation into the United States over a specific period of time, and such authorization may, in the discretion of the Director, be incorporated into the terms of another type of importation permit.

(a) *Application procedure.* Applications for permits to import wildlife, other than endangered wildlife, at a nondesignated port for scientific purposes shall be submitted to the appropriate Special Agent in Charge (See § 13.11(b) of this subchapter). Each such application must contain the general information

and certification required by § 13.12 (a) of this subchapter plus the following additional information:

- (1) Description of purpose or uses of the scientific specimens to be imported;
- (2) Number and kinds of wildlife to be imported, described by species and subspecies, including the scientific and common names;
- (3) Country or place of origin;
- (4) Method of shipment;
- (5) Port or ports of entry where importation is requested;
- (6) Statement as to whether exception is being requested for a single shipment, a series of shipments, or importations over a specific period of time; and
- (7) Statement of the reasons why importation should be allowed at the requested port or ports of entry rather than at a designated port.

(b) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to import wildlife, other than endangered wildlife, at a nondesignated port issued under this section, shall be subject to the following condition:

Permittee shall file such reports as may be specified on the permit, and if no report is specified on the permit shall file an annual report for each calendar year or portion thereof ending December 31. Such reports shall be filed not later than March 31 for the preceding year and shall itemize importations by: Date, port of entry, method of shipment, country of origin, and numbers and kinds of wildlife.

(c) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit to import wildlife, other than endangered wildlife, at a nondesignated port by a scientist:

- (1) A benefit to a bona fide scientific research project; or
- (2) Facilitation of the exchange of preserved museum specimens.

(d) *Tenure of permits.* The tenure of permits to import wildlife, other than endangered wildlife, at nondesignated ports for scientific purposes shall be that which is designated on the face of the permit, but shall in no case extend beyond December 31 of the second full calendar year following the year of issue.

§ 14.32 Permits to import wildlife at nondesignated ports to minimize deterioration or loss.

The Director may, upon receipt of an application which demonstrates to his satisfaction that importation of wildlife at the ports required by the regulations of this part will result in a substantial deterioration or loss of wildlife, issue a permit authorizing the importation of wildlife, including endangered species, at any Customs port of entry. Such permits may authorize a single importation, a series of importations, or importations into the United States over a specific period of time, and such authorization may, in the discretion of the Director, be incorporated into the terms of another type of importation permit.

(a) *Application procedure.* Applications for permits to import wildlife at a nondesignated port to minimize deterioration

or loss shall be submitted to the appropriate Special Agent in Charge (See § 13.11(b) of this subchapter). Each such application must contain the general information and certification required in § 13.12(a) of this subchapter plus the following information:

- (1) Number and kinds of wildlife to be imported, described by species and subspecies, including the scientific and common names;
- (2) Country or place of origin;
- (3) Date or dates of intended importation;
- (4) Method of shipment, including names of carriers, if any;
- (5) Port or ports of entry where importation is requested;
- (6) Purpose for which wildlife is being imported;
- (7) Statement as to whether exception is being requested for a single shipment, a series of shipments, or importations over a specified period of time; and
- (8) Statement of the reasons why the importation should be allowed at the requested port or ports of entry rather than at a designated port, including evidence that an importation at a designated port by any method at the time in question would result in a substantial deterioration or loss to the wildlife.

(b) *Additional permit conditions.* In addition to the general condition set forth in Part 13 of this Subchapter B, permits to import wildlife at a nondesignated port to minimize deterioration or loss shall be subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit and if no report is specified on the permit shall file an annual report for each calendar year or portion thereof ending December 31. Such reports shall be filed not later than March 31 of the preceding year and shall itemize importations by: Date, port of entry, method of shipment, country of origin, and numbers and kinds of wildlife.

(2) Permittee shall pay costs incurred by the Director in inspecting permittees importations at nondesignated ports, including the salary, per diem, and travel costs of the Bureau agent.

(c) *Issuance criteria.* The Director shall consider the likelihood of a substantial deterioration or loss of wildlife in determining whether to issue a permit to import wildlife, including endangered species, at a nondesignated port.

(d) *Tenure of permits.* The tenure of permits to import wildlife at nondesignated ports to minimize deterioration or loss shall be that which is designated on the face of the permit, but shall in no case extend beyond December 31 of the second full calendar year following the year of issue.

§ 14.33 Permits to import wildlife at nondesignated ports to alleviate undue economic hardship.

The Director may, upon receipt of an application which demonstrates to his satisfaction that importation of wildlife at the ports required by the regulations of this part would subject the applicant to undue economic hardship, issue a per-

mit authorizing the importation of wildlife, other than endangered wildlife, at any Customs port of entry. Such permits may authorize a single importation, a series of importations, or importation into the United States over a specific period of time, and such authorization may, in the discretion of the Director, be incorporated into the terms of another type of importation permit.

(a) *Application procedures.*—Applications for permits to import wildlife other than endangered wildlife, at a nondesignated port to alleviate undue economic hardship shall be submitted to the appropriate Special Agent in Charge (See § 13.11(b) of this subchapter). Each such application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) Number and kinds of wildlife to be imported, described by species and subspecies, including the scientific and common names, and a description of the form in which it is to be imported, as "live," "frozen," "raw hides," or a full description of any manufactured product;

(2) Country or place of origin;

(3) Name and address of supplier;

(4) Method of shipment;

(5) Port or ports of entry where importation is requested;

(6) Purpose for which wildlife is being imported;

(7) Statement as to whether exception is being requested for a single shipment, a series of shipments, or for importations over a specified period of time. If the permit is being requested for a series of shipments over a period of time include a narrative statement of circumstances including the attachment of documentary evidence showing a pattern of such importations for a period of at least 1 year, or other documentary evidence to support the need for period requested; and

(8) Cost data showing the monetary difference between the cost of importation at the port requested and the lowest cost of importation at the port through which importation is permitted by these regulations without a permit.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import wildlife, other than endangered wildlife, at nondesignated ports to alleviate undue economic hardship are subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit, and if no report is specified on the permit shall file an annual report for each calendar year or portion thereof ending December 31. Such reports shall be filed not later than March 31 for the preceding year and shall itemize importations by: Date, port of entry, method of shipment, country of origin, and numbers and kinds of wildlife.

(2) Permittee shall pay costs incurred by the Director in inspecting permittee's importations at nondesignated ports, including the salary, per diem and travel costs of the Bureau agent.

(c) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit to import wildlife, other than endangered wildlife, at a nondesignated port to alleviate undue economic hardship:

(1) The difference between the cost of importing the wildlife at the port requested and the lowest cost of importing such wildlife at a port permitted by these regulations; and

(2) The severity of the economic hardship that likely would result should the permit not be issued.

(d) *Tenure of permits.* The tenure of permits to import wildlife at nondesignated ports to alleviate undue economic hardship shall be that which is designated on the face of the permit, but shall in no case extend beyond December 31 of the second full calendar year following the year of issue.

Subpart D—Foreign Documentation

§ 14.41 Foreign documentation requirement.

If the laws or regulations of the country of origin, the country of export, or a subdivision thereof, restrict the taking, possession, transportation, exportation, or sale of wildlife, the owner, importer, or consignee may be required to produce foreign documentation showing that such laws or regulations have not been violated.

§ 14.42 Definition of foreign documentation.

The foreign documentation which will satisfy the requirements of § 14.41 may be either of the following:

(a) Official permits or other documents showing legal taking, possession, transportation, exportation, and sale issued by an appropriate agency or official of the country of origin, and where applicable, from the country of export; if such permits and documents are not written in English, the original documents and certified English translations thereof; or

(b) A consular certificate from the appropriate U.S. consul which shows that an appropriate foreign government official has certified to the U.S. consul the information required in paragraph (a) of this section for the country of origin and, where applicable, the country of export; or

(c) For wildlife lawfully taken in Canada or the United Mexican States by sportsmen, valid Canadian or Mexican export permits, fishing, or hunting licenses.

§ 14.43 Exceptions to foreign documentation requirement.

Notwithstanding the provisions of § 14.41, except for endangered wildlife, foreign documentation shall not be required for importation of the following wildlife:

(a) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage, except raw or dressed furs, and green, salted, or crusted hides, or skins, game, or game trophies;

(b) Wildlife products or manufactured articles which are not intended for sale and are a part of a shipment of the household effects of persons moving their residence to the United States, except raw or dressed furs, and green, salted, or crusted hides or skins; and

(c) Shellfish and fishery products as defined in § 14.21.

Subpart E—Inspection and Clearance of Importations

§ 14.51 Inspection of imported wildlife.

All wildlife shall be subject to inspection by Bureau agents and Customs officers upon importation into the United States. Such inspection may include examination of the wildlife, the package or container in which such wildlife was shipped or transported, foreign documentation, declarations, Bureau or other permits, and invoices, waybills, manifests, or other documents relating to such wildlife importation.

§ 14.52 Clearance of imported wildlife.

Except as otherwise provided by this subpart, all wildlife imported into the United States must be cleared by a Bureau agent prior to release from detention by Customs officers pursuant to 19 U.S.C. 1499. Such clearance shall not be construed as a certification of the legality of an importation under the laws or regulations of the United States.

§ 14.53 Clearance procedure.

(a) Bureau agents, or Customs officers, pursuant to § 14.54, may refuse clearance of imported wildlife when they have reasonable grounds to believe:

(1) A Federal law or regulation has been violated;

(2) That the correct identity of the wildlife has not been established (in such cases the burden shall be upon the owner, importer, or consignee to prove such identity);

(3) That any foreign documentation required to accompany such wildlife is not authentic; or

(4) That the importer or his broker has filed an incorrect or incomplete declaration for importation as provided in subpart F of this part 14.

(b) Where clearance of imported wildlife has been refused, the wildlife may, at the discretion of the Bureau, be:

(1) Seized;

(2) Exported by the owner, importer, or consignee at his request and expense;

(3) Abandoned pursuant to the provisions of § 12.15 of this subchapter; or

(4) Released under such bond as may be required, and/or subject to recall.

§ 14.54 Unavailability of Bureau agents.

Whenever Bureau agents are not available, within a reasonable time, to inspect and clear imported wildlife at a designated port or other port at which wildlife may be imported pursuant to the regulations of this part, any Customs officer may inspect and clear such wildlife subject to recall, and, in the case of in-transit shipments, may do so at either the port of entry or the port of destination.

§ 14.55 Exceptions to clearance requirements.

Except for endangered wildlife, the clearance procedures of § 14.53 shall not be required for importation of the following wildlife:

- (a) Shellfish and fishery products as defined in § 14.21;
- (b) Fish taken by fishermen on the high seas, or within the territorial seas or fishery zones of any country;
- (c) Marine mammals lawfully taken on the high seas by U.S. residents and imported directly into the United States.

Subpart F—Declaration for Importation of Wildlife

§ 14.61 Declaration requirement.

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation of Fish or Wildlife (form 3-177) shall be filed by the importer of his broker with the District Director of Customs at the Customs port of entry where clearance under § 14.52 occurs or where release from detention by Customs officers pursuant to 19 U.S.C. 1499 occurs. The Declaration for Importation of Fish or Wildlife shall include the following information:

- (1) Name and address of the importer;
- (2) Name and address of the consignor or shipper;
- (3) Name of broker, if any;
- (4) Name of the carrier, if any;
- (5) Permit number under which the wildlife is imported, if any;
- (6) Common name, scientific name, country of origin, and number of each species or subspecies imported;
- (7) Form in which imported, i.e., live, fully mounted, trophy, hide, manufactured product, freshly killed, etc.; and
- (8) Certification in the following language: "I hereby certify that the information submitted for the importation of wildlife is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001."

§ 14.62 Exceptions to declaration requirement.

(a) Except for endangered or injurious wildlife, a Declaration for Importation of Fish or Wildlife (form 3-177) shall not be required to be filed for importation of the following wildlife:

- (1) Fish taken by sport fishermen on the high seas or within the territorial seas or the fishery zones of any country;
- (2) Fish, taken by sport fishermen in Canada or Mexico;
- (3) Shellfish or fishery products imported for commercial purposes as defined in § 14.21;
- (4) Game mammals or birds from Canada or Mexico on which a Declaration for Free Entry of Game Mammals or Birds Killed by United States Residents (Customs form 3315) has been filed;
- (5) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage, except that a declaration will be required for raw or dressed furs and green, salted,

or crusted hides or skins; and game or game trophies where the exception in paragraph (4) of this section does not apply; and

(6) Wildlife products or manufactured articles which are not intended for sale and are a part of a shipment of the household effects of persons moving their residence to the United States, except that a declaration will be required for raw or dressed furs, and green, salted, or crusted hides or skins.

(b) In regard to marine mammals (see Parts 18 and 216) lawfully taken on the high seas by U.S. residents and imported directly into the United States, the Declaration for Importation of Fish or Wildlife (Form 3-177) may be filed at any Customs port of entry.

Subpart G—Export of Wildlife to Mexico

§ 14.71 Permit to export game mammals to the United Mexican States.

Persons exporting to the United Mexican States, antelope, mountain sheep, deer, bear, peccary, squirrel, rabbit, or hare, or the dead body or parts thereof, whether or not included in a manufactured product or a processed food product, shall be required to present to the U.S. Customs official at the port of exit, on request, a certificate of a warden, agent, or other official of the State game department of the State of origin. Such certificate shall list the game animals by species and number, or other appropriate specific description, and certify they were taken or acquired and are being exported in compliance with the statutes and regulations of the State of origin.

Subpart H—Marking Requirements for Certain Shipments

§ 14.81 Marking package or container.

Except as otherwise provided in this subpart, no person shall ship, transport, carry, bring or convey any wildlife in interstate or foreign commerce unless the package or container in which such wildlife is contained has the name and address of the shipper and the consignee and an accurate statement of the contents by species and numbers of each species of wildlife therein contained clearly and conspicuously marked on the outside thereof.

§ 14.82 Exceptions to the marking requirement.

(a) *Commercial shellfish or fishery products.*—The requirements of § 14.81 do not apply to packages or containers holding shellfish or fishery products imported for commercial purposes as defined in § 14.21.

(b) *Mink, chinchilla, silver fox, blue fox, rabbit, and nutria.*—The requirements of § 14.81 do not apply to packages or other containers holding mink, chinchilla, silver fox, blue fox, rabbit, and nutria that have been bred and born in captivity: *Provided*, That a separate signed statement certifying the animals were bred and born in captivity accompanies the shipping document.

(c) *Furs, hides, and skins—interstate commerce.*—The requirements of § 14.81

do not apply to packages or containers holding furs, hides, and skins shipped interstate: *Provided*, That the names and addresses of the shipper and consignee are clearly and conspicuously marked on the outside thereof.

(d) *Symbol markings.* The requirements of § 14.81 do not apply to packages or containers shipped, transported, carried, brought or conveyed in interstate or foreign commerce where such packages are clearly marked with a symbol in accordance with the terms of a valid permit issued pursuant to § 14.83.

§ 14.83 Symbol marking permit.

The Director may, upon receipt of an application which demonstrates to his satisfaction that the marking or other identification required by § 14.81 would create a significant possibility of the theft of the package or its contents, issue a permit authorizing the use of an identification symbol in lieu of the marking required by § 14.81.

(a) *Application procedures.* Applications for symbol marking permits shall be submitted to the appropriate Special Agent in Charge (See § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

- (1) Common and scientific names, and estimated numbers of wildlife to be shipped;
- (2) Form in which imported or exported, as "raw skins," "fur garments," etc.;
- (3) Type of packaging, method of shipment, and carrier or carriers, if known;
- (4) Country or countries of origin for imports, and country or countries of destination for exports;
- (5) Port or ports of importation and export;
- (6) Estimated frequency of shipments;
- (7) Detailed statements of the reasons why the marking required by § 14.81 would create a significant possibility of theft of the package or its contents;
- (8) Description of an evidence showing actual thefts, if any, incurred by applicant which can be ascribed to marking requirements of § 14.81, including dates, description of goods, place, if known, value, including affidavits, invoices, correspondence, and insurance claims relative thereto to conclusively show actual losses by applicant; and

(9) At the option of the applicant, a suggested symbol which is desired with the understanding that such suggested symbol may or may not be assigned at the discretion of the Director.

(b) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to use symbol marking shall be subject to the following conditions:

- (1) When using the symbol in lieu of another marking required in § 14.81, the entire symbol must be clearly and conspicuously marked on the outside of every package and the symbol, together with other identifying numbers or characters, must also appear on all shipping documents relating to such packages or con-

tainers and on all documents required by §§ 14.41 and 14.61.

(2) The permittee shall, from the effective date of the permit, maintain complete and accurate records of all wildlife furs which are shipped, transported, carried, brought or conveyed in interstate or in foreign commerce and which are identified by means of such symbol. The records shall include the number, species or subspecies, description of the package or container, method of shipment, time and place of shipment, including the air waybill or bill of lading number, and general description of the items. Such records shall be open to inspection, auditing, or copying by any authorized employee of the Bureau at any time during regular business hours.

(c) *Tenure of permits.*—The tenure of permits to use symbol marking shall be from the date of issue to June 30 of the first full year following the year of issue.

PART 15—FEATHER IMPORT QUOTAS

Subpart A—Introduction

- Sec.
15.1 Purpose of regulations.
15.2 Scope of regulations.

Subpart B—Import Quotas and Permit Requirement

- 15.11 Import quotas established.
15.12 Permit requirement.

Subpart C—Application for and Allocation of Quotas

- 15.21 Application for quota allocation and permit.
15.22 Filing dates for applications.
15.23 Allocation of calendar year quotas.
15.24 Reallocation of unused calendar year quotas.
15.25 Issuance of permits.
15.26 Tenure of importation permits.

AUTHORITY: Tariff Classification Act of 1962, sec. 102, 76 Stat. 73-74, 19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States."

Subpart A—Introduction

§ 15.1 Purpose of regulations.

The regulations contained in this part establish annual quotas on importation of skins bearing feathers of the mandarin duck, and five species of pheasants. These regulations also govern applications for and issuance of permits for the entry of such birdskins and establish the method which will be used to allocate and reallocate any unused portions of the annual quotas among the several applicants.

§ 15.2 Scope of regulations.

(a) The regulations of this part apply only to the feathers or skins of those species of birds named in § 15.11:

- (1) Whether raw or processed;
- (2) Whether the whole plumage or skin or any part of either;
- (3) Whether or not attached to a whole bird or any part thereof; and
- (4) Whether or not forming part of another article.

(b) The regulations of this part 15 do not apply:

- (1) To any importation for scientific or educational purposes;

(2) To the importation of fully manufactured artificial flies used for fishing.

(3) To the importation of game birds killed by United States hunters abroad, and imported by such persons for non-commercial purposes.

(4) To the importation of live birds; and

(5) To the importation of any of the following birds (other than any such bird which, whether or not raised in captivity, is a wild bird): chickens (including hens and roosters), turkeys, guinea fowl, geese, ducks, pigeons, ostriches, rheas, English ring-necked pheasants, and pea fowl.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also Part 13 of this subchapter).

Subpart B—Import Quotas and Permit Requirement

§ 15.11 Import quotas established.

During any calendar year, beginning January 1 and ending December 31, the following quotas are established for the entry of skins bearing feathers. For the purpose of these quotas any part of a skin which has been severed shall be considered a whole skin.

(a) For use in the manufacture of artificial flies used for fishing:

Grey jungle fowl (*Gallus sonnerati*) --- none
(quota eliminated)
*Mandarin duck (*Aix galericulata*) --- 1,000
*Former scientific name: *Dendrocygna galericulata*.

(b) For use in the manufacture of artificial flies used for fishing or for millinery purposes:

Lady Amherst pheasant (<i>Chrysolophus amherstiae</i>)	
Golden pheasant (<i>Chrysolophus pictus</i>)	45,000
Silver pheasant (<i>Lophura nycthemera</i>)	in the aggregate
Reeves pheasant (<i>Symaticus reevesii</i>)	
Blue-eared pheasant (<i>Crossoptilon auritum</i>)	
Brown-eared pheasant (<i>Crossoptilon manticurum</i>)	none (quota eliminated)

§ 15.12 Permit requirement.

Except as otherwise provided in this section, no person shall import, enter, or cause to be imported or entered, feathers, skins, or skins bearing feathers of any species listed in § 15.11 without a permit issued pursuant to this part: *Provided*, That any person may import without a permit, for storage in warehouse under customs bond, skins bearing feathers of species for which a quota is provided in the preceding § 15.11. When so imported and stored, such skins shall not be removed from the warehouse or entered into the United States for use without a permit issued pursuant to this part.

No person shall import for warehouse storage or other purpose skins bearing feathers of any species on which the quota has been eliminated.

Subpart C—Application for and Allocation of Quotas

§ 15.21 Application for quota allocation and permit.

All persons desiring to share in the allocation of annual import quotas and to obtain a permit to enter skins bearing feathers shall submit an application to the Director during the period set forth by § 15.22. Each such application shall contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(a) Quantity of each species of bird-skin or part thereof for which an importation permit is requested;

(b) Port at which entry will be made, or in the case of warehouse storage under bond, port at which importation was made and location and amount of bird-skins presently in storage;

(c) Statement of the purpose (use) for which the skins bearing feathers are sought to be imported or entered; and

(d) Statement as to whether application is being made for an initial allocation of a calendar year quota, or for reallocation of an unused portion of a calendar year quota.

§ 15.22 Filing dates for applications.

Each application for a quota allocation and permit must be postmarked during the dates set forth in paragraph (a) and (b) of this section in order to be considered.

(a) Applicants desiring to participate in the allocation of calendar year quotas shall submit applications from September 1 through September 30 of the year preceding the calendar year for which quota allocations are to be made.

(b) Applicants desiring to participate in the reallocation of such portions of the established annual quotas as may become available for reallocation, shall submit applications from July 1 through July 31 of the calendar year during which the unused portion of the quota becomes available for reallocation.

§ 15.23 Allocation of calendar year quotas.

As promptly as possible after the closing date for filing, all applications timely filed will be considered and tentative quotas allocated by the method set forth in paragraphs (a) through (e) of this section. For the purposes of this section, the species of pheasants for which quotas have been provided shall be grouped together and considered as one species.

(a) The number of eligible applicants for skins of mandarin duck and pheasants, respectively, shall be divided into the quotas of skins available for the ensuing calendar year for the respective species, to determine the number of skins of each species the several applicants

would be entitled to import on an equal basis.

(b) Any applicant for an allocation in an amount equal to or less than the average quantity established for all applicants pursuant to paragraph (a) of this section is entitled to receive an allocation of the quantity for which he applied.

(c) After the allocations are made under paragraph (b) of this section, all remaining unallocated quantities of skins of the respective species shall be allocated equally among those applicants who applied for more than the average quantities determined under paragraph (a) of this section. However, no applicant shall be allocated a quantity of skins in excess of the number applied for.

(d) Each applicant shall then be furnished a tabulation by registered or certified mail, return receipt requested, of the quantities of each species requested and the quantities proposed to be allocated to each applicant. Each applicant must then report by letter addressed to the Director, postmarked not later than 30 days after date of receipt of the notice of proposed allocations, that he accepts the proposed allocation. The letter must contain satisfactory proof, such as a copy of a currently confirmed order, that orders have been placed for the importing of his allocation of bird skins and must be accompanied by the prescribed fee in the form of a postal money order or a check made payable to the Bureau of Sport Fisheries and Wildlife. Applicants failing to respond to the notice of proposed allocations or failing to furnish the prescribed fee shall be deemed to have withdrawn their applications. Applicants who submit the required showing and fee by other than registered or certified mail, do so at their own risk.

(e) Any quantities of birdskins of the respective species which become available for allocation through the failure of applicants to submit the proper showing as required in paragraph (d) of this section, shall promptly be allocated among those applicants whose requests were not satisfied in full, using the methods prescribed in paragraphs (a) through (c) of this section to determine the additional quantity of skins allowable to each such applicant.

§ 15.24 Reallocation of unused calendar year quotas.

Any portion of the calendar year quotas which may become available for reallocation through surrender or nonuse, in whole or in part, of permits expiring on June 30 of any year, shall be reallocated as promptly as possible after the closing date for filing among applicants who have submitted proper applications in accordance with § 15.21. Such reallocations shall be made by the method prescribed in § 15.23 (a) through (c). If the quantities of the respective species of birdskins are insufficient to permit reallocation among all applicants by such method, preference shall be given to

those applications bearing the earliest postmark.

§ 15.25 Issuance of permits.

As soon as practicable after the annual quota allocations or reallocations have been determined, the quotas allocated to successful applicants shall be evidenced by permits issued to the applicant with copies forwarded to the respective District Directors of Customs at the ports of entry specified in the applications. Such permits shall authorize the importation and entry for limited use, of the quantities of birdskins allocated to each applicant. Until such time as it shall be found necessary to reduce the import quota established for pheasants, permits will authorize the entry of a stated number in the aggregate of those species of pheasant for which a quota is provided.

§ 15.26 Tenure of importation permits.

(a) Permits covering the calendar year quota allocations are issued as of January 1 and remain in effect through June 30 of the year of issue. No extension of time shall be granted on such permits and any portion of the quota allocations which become available through surrender or nonuse, in whole or in part, of a permit expiring on June 30, shall be reallocated among applicants who submit proper applications.

(b) Permits covering the reallocations made pursuant to § 15.24 shall be issued as promptly as possible after July 31 and remain in effect through December 31 of the year of issue. No extension of time shall be granted on such permits, and any portion of the quotas so reallocated which are not imported through surrender or nonuse of reallocation permits, in whole or in part, on or before December 31 of the year of issue, shall lapse and no further allocation thereof shall be made.

PART 16—INJURIOUS WILDLIFE

Subpart A—Introduction

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AUTHORITY: Lacey Act, 74 Stat. 754 (18 U.S.C. 42).

Subpart A—Introduction

§ 16.1 Purpose of regulations.

The regulations contained in this part implement the Lacey Act (18 U.S.C. 42).

§ 16.2 Scope of regulations.

The provisions of this Part are in addition to, and are not in lieu of, other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also Part 13).

§ 16.3 General restrictions.

Any importation or transportation of live wildlife or eggs thereof, or dead fish or eggs or salmonids of the fish family Salmonidae into the United States or its territories or possessions is deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interest of forestry, agriculture, and horticulture, and to the welfare and survival of the wildlife or wildlife resources of the United States; and any such importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever, is prohibited except for certain purposes and under certain conditions as hereinafter provided in this part: *Provided*, That the provisions of this section shall not apply to psittacine birds (see also 16.32 and 16.33 for other exemptions).

Subpart B—Importation or Shipment of Injurious Wildlife

§ 16.11 Importation of live wild mammals.

(a) The importation, transportation, or acquisition is prohibited of live specimens of (1) any species of so-called "flying fox" or fruit bat of the genus *Pteropus*; (2) any species of mongoose or meerkat of the genera *Atlatx*, *Cynictis*, *Helogale*, *Herpestes*, *Ichneumia*, *Mungos*, and *Suricata*; (3) any species of European rabbit of the genus *Oryctolagus*; (4) any species of Indian wild dog, red dog, or dhole of the genus *Cuon*; and (5) any species of multimammate rat or mouse of the genus *Mastomys*: *Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such mammals under the terms and conditions set forth in § 16.22.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all other species of live wild mammals may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live wild mammals or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for

release from such agency: *Provided*, That the provisions of this paragraph shall not apply to live game mammals from Mexico, the importation of which is governed by regulations under Part 14 of this chapter.

§ 16.12 Importation of live wild birds or their eggs.

(a) The importation, transportation, or acquisition is prohibited of any live specimen or egg of (1) the species of so-called "pink starling" or "rosy pastor" *Sturnus roseus*; (2) the species of diach (including the subspecies black-fronted, red-billed, or Sudan diach) *Quelea quelea*; (3) any species of Java sparrow, *Padda oryzivora*; (4) the species of red-whiskered bul-bul, *Pycnonotus jocosus*: *Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such live birds under the terms and conditions set forth in § 16.22.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live wild game, birds may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, and the eggs of such birds may be imported, transported, and possessed, without a permit, for propagating or scientific collection purposes, but no such live wild game birds or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

(c) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live, wild nongame birds (other than those listed in paragraph (a) of this section) may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live, wild nongame birds or any progeny thereof may be released into the wild except by or under the direction of State wildlife conservation agencies when such agencies have received prior written permission from the Director for such release: *Provided*, That the provisions of this paragraph shall not apply to live bald and golden eagles or to live migratory birds, the importation of which is governed by regulations under Parts 22 and 21 of this chapter, respectively, or to birds of the Family *Psittacidae* (parrots, macaws, cockatoos, parakeets, lorries, lovebirds, etc.), the importation and transportation of which is governed by U.S. Public Health Service regulations under 42 CFR 71 and 72.

(d) The importation of the eggs of wild nongame birds is prohibited except as permitted under § 16.33.

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a) (1) The importation, transportation, or acquisition is prohibited of any live fish or viable eggs of the family Clariidae: *Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such live fish or viable eggs under the terms and conditions set forth in § 16.22.

(2) Except as provided in subparagraph (1) of this paragraph, and except for the salmonids of the fish family Salmonidae, as provided in paragraph (b) of this section, all species of live or dead fish, mollusks, and crustaceans, or parts thereof, or their eggs, may be imported, transported, and possessed in captivity without a permit, for scientific, medical, educational, sale, exhibition, or propagational purposes upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61. No such live fish, mollusks, crustacean, or any progeny or eggs thereof, may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission from such agency.

(b) (1) Notwithstanding authority granted Federal agencies in § 16.32, all live or dead fish or eggs of salmonids of the fish family Salmonidae are prohibited entry into the United States for any purpose unless such importations are by direct shipment, accompanied by a certification that the importation is free of the protozoan *Myxosoma cerebralis*, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicemia or "Egtved disease." The certification shall be signed in the country of origin by a designated official acceptable to the Secretary of the Interior as being qualified in fish pathology, or in the United States by a qualified fish pathologist designated for this purpose by the Secretary of the Interior.

(2) The certificate required by this section shall consist of a statement in the English language, printed or typewritten, stating that this shipment of fish or eggs is free from these two diseases by the methods outlined in Fish Disease Leaflet 9, and will contain (i) the date and port of export in the country of origin and the anticipated United States date of arrival and port of entry, (ii) surface or air carrier and flight number, or vessel name or number, (iii) bill of lading number or airway bill number, and (iv) the handwritten signature, in ink, of the authorized certifying officer, and may be substantially in the following form:

I, _____, approved by the Secretary of the U.S. Department of the Interior, on _____, as a certifying official for _____, as required by Title _____ (Country) 50, CFR 13.7(b), do hereby certify, using the methodology described in Fish Disease Leaflet (FDL-9, July 1968), that this shipment of _____ of dead or live fish or fish eggs to be shipped under _____ (Weight in pounds) is free of the _____ (Bill of lading number, or airway bill number) protozoan *Myxosoma cerebralis*, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicemia or "Egtved disease." The shipment is scheduled to depart _____ on _____, via _____ (City and Country) _____ (Date) with anticipated _____ (Name of carrier) arrival at the port of _____ U.S.A., on _____ (City) _____ (Date) _____ (Signature in ink of certifying officer) _____ (Date)

(c) Nothing in this part shall restrict the importation and transportation of the fish family Salmonidae when such fish or eggs have been processed by canning, pickling, smoking, or otherwise prepared in a manner whereby all spores of the protozoan *Myxosoma cerebralis*, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicemia or so-called "Egtved disease," have been killed. Salmon landed in North America and brought into the United States for processing or sale, or any salmonid caught in the wild in North America under a sport or a commercial fishing license shall be exempt from the requirements for certification and from the filing of the Declaration for Importation of Wildlife.

§ 16.14 Importation of live amphibians or their eggs.

Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live amphibians or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, education, exhibition, or propagating purposes, but no such live amphibians or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

§ 16.15 Importation of live reptiles or their eggs.

Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live reptiles or their eggs may be imported, transported, and possessed in captivity, with-

out a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live reptiles or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

Subpart C—Permits

§ 16.21 [Reserved]

§ 16.22 Injurious wildlife permits.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the importation into or shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States of injurious wildlife (See subpart B of this part) for zoological, educational, medical, or scientific purposes.

(a) *Application procedure.* Applications for permits to import or ship injurious wildlife for such purposes shall be submitted to the appropriate Special Agent in Charge (See § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) The number of specimens and the common and scientific names (genus and species) of each species of live wildlife proposed to be imported or otherwise acquired, transported, and possessed;

(2) The purpose of such importation, or other acquisition, transportation, and possession;

(3) The address of the premises where such live wildlife will be kept in captivity;

(4) The name and address of the consignor or other person from whom such wildlife will be acquired; and

(5) A statement of applicant's qualifications and previous experience in caring for and handling captive wildlife.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter b, permits to import or ship injurious wildlife for zoological, educational, medical, or scientific purposes shall be subject to the following conditions:

(1) All live wildlife acquired under permit and all progeny thereof, must be confined in the approved facilities on the premises authorized in the permit.

(2) No live wildlife, acquired under permit, or any eggs or progeny thereof, may be sold, donated, traded, loaned, or transferred to any other person unless such person has a permit issued by the Director under § 16.22 authorizing him to acquire and possess such wildlife or the eggs or progeny thereof.

(3) Permittees shall submit a report of all live wildlife acquired under authority of a permit to the Director within 10 days following the date of such acquisition.

(4) Permittees must notify the Director by letter within 10 days following the death and by telephone or telegraph within 24 hours following the escape of any wildlife or their progeny possessed

under authority of a permit, unless specifically exempted from either requirement by special terms of his permit.

(c) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit to import or ship injurious wildlife for zoological, educational, medical, or scientific purposes:

(1) Whether the wildlife is being imported or otherwise acquired for a bona fide scientific, medical, educational, or zoological exhibition purpose;

(2) Whether the facilities for holding the wildlife in captivity have been inspected and approved, and consist of a basic cage or structure of a design and material adequate to prevent escape which is maintained inside a building or other facility of such structure that the wildlife could not escape from the building or other facility after escaping from the cage or structure maintained therein;

(3) Whether the applicant is a responsible person who is aware of the potential dangers to public interests posed by such wildlife, and who by reason of his knowledge, experience, and facilities reasonably can be expected to provide adequate protection for such public interests; and

(4) If such wildlife is to be imported or otherwise acquired for zoological or aquarium exhibition purposes, whether such exhibition or display will be open to the public during regular appropriate hours.

Subpart D—Additional Exemptions

§ 16.31 [Reserved]

§ 16.32 Importation by Federal agencies.

Nothing in this part shall restrict the importation and transportation, without a permit, of any live wildlife by Federal agencies solely for their own use, upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61: *Provided*, That the provisions of this section shall not apply to bald and golden eagles or their eggs, or to migratory birds or their eggs, the importations of which are governed by regulations under Parts 22 and 21 of this chapter, respectively.

§ 16.33 Importation of natural-history specimens.

Nothing in this part shall restrict the importation and transportation, without a permit, of dead natural-history specimens of wildlife or their eggs for museum or scientific collection purposes: *Provided*, That the provisions of this section shall not apply to dead migratory birds, the importation of which is governed by regulations under Parts 20 and 21 of this chapter; to dead game mammals from Mexico, the importation of which is governed by regulations under Part 14 of this chapter; or to dead bald and golden eagles or their eggs, the importation of which is governed by regulations under Part 22 of this chapter.

PART 17—ENDANGERED WILDLIFE

Subpart A—Introduction

Sec.

17.1 Purpose of regulations.

17.2 Scope of regulations.

Subpart B—Endangered Wildlife Lists

Sec.

17.11 Endangered foreign wildlife.

17.12 Endangered native wildlife.

17.13 Amendments of the lists of endangered wildlife.

Subpart C—Endangered Wildlife Importation Permits

17.21 General permit requirement.

17.22 Economic hardship permits.

17.23 Zoological, educational, scientific, or propagation permits.

AUTHORITY: Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278 (16 U.S.C. 668cc-4).

Subpart A—Introduction

§ 17.1 Purpose of regulations.

The regulations contained in this part identify the species or subspecies of native and foreign wildlife determined by the Secretary to be threatened with extinction, establish procedures and criteria for issuance of permits for importation of endangered foreign wildlife, and provide for public participation in the amendment of the endangered wildlife lists. The regulations of this part implement, in part, the Endangered Species Conservation Act of 1969 (16 U.S.C. 668aa to 668cc-6).

§ 17.2 Scope of regulations.

(a) The regulations of this part apply only to endangered wildlife.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife. (See also Part 13 of this subchapter).

Subpart B—Endangered Wildlife Lists

§ 17.11 Endangered foreign wildlife.

Based on the best scientific and commercial data available to him and after consultation, in cooperation with the Secretary of State, with the foreign country or countries in which such wildlife are normally found and, to the extent practicable, with interested persons and organizations and other interested Federal agencies, the Secretary has determined that the species or subspecies of wildlife listed below are threatened with worldwide extinction due to one or more of the factors listed in 16 U.S.C. 668cc-3(a). The presence of a trinomial (third word) in the "scientific name" column identifies that animal as a subspecies. If one or more subspecies of a species are listed, it indicates that the species as a whole is not endangered although the named subspecies are. The "common and commercial name" column contains the most generally accepted names in the English language. When two or more common names for a species are in common usage, the most widely used one is placed first, followed by others in parentheses. The public should be aware that common and commercial names may vary from local usage. The "where found" column is provided for the convenience of the public, is not exhaustive, is not required to be given by law, and has no legal significance.

RULES AND REGULATIONS

Common name	Scientific name	Where found
Mollusk:		
Snail, Manus Island tree	<i>Papustyla pulcherrima</i>	Admiralty Islands: Manus Island.
Fish:		
Ala Balik	<i>Salmo platycephalus</i>	Turkey.
Ayudodoki	<i>Hymenophysa curta</i>	Japan.
Blindcat, Mexican	<i>Prietella phreatophila</i>	Mexico.
Catfish	<i>Pangasius sanitwongsei</i>	Thailand.
Catfish, Giant	<i>Pangasianodon gigas</i>	Do.
Cieek	<i>Acanthorhynchus handlirachi</i>	Turkey.
Nekogigi	<i>Coreobagrus ichikawai</i>	Japan.
Tanago, Miyako	<i>Tanaka tanago</i>	Do.
Amphibians:		
Frog, Stephen Island	<i>Leiopeltis hamiltoni</i>	New Zealand.
Frog, Israel painted	<i>Discoplossus nigriventris</i>	Israel.
Reptiles:		
Boa, Jamaica	<i>Epicrates subflavus</i>	Jamaica.
Caiman (see Yacare)		
Crocodile, Cuban	<i>Crocodylus rhombifer</i>	Cuba.
Crocodile, Morelet's	<i>Crocodylus moreletii</i>	Mexico, British Honduras, Guatemala.
Crocodile, Nile	<i>Crocodylus niloticus</i>	Africa.
Crocodile, Orinoco	<i>Crocodylus intermedius</i>	Orinoco River, northern South America.
Gavial	<i>Gavialis gangeticus</i>	Pakistan, India, Burma, Bangladesh.
Gecko, Day	<i>Phelsuma newtoni</i>	Mauritius.
Gecko, Round Island day	<i>Phelsuma guentheri</i>	Do.
Iguana, Anegada ground	<i>Cyclura pinguis</i>	Virgin Islands: Anegada Island.
Lizard, Barrington land	<i>Conolophus pallidus</i>	Ecuador: Galapagos Islands.
Terrapin, River (Tuntong)	<i>Batagur baska</i>	Burma, India, Indonesia, Malaysia, Bangladesh.
Tortoise, Galapagos	<i>Testudo elephantopus</i>	Ecuador: Galapagos Islands.
Tortoise, Madagascar radiated	<i>Testudo radiata</i>	Madagascar.
Tortoise, Short-necked or swamp	<i>Pseudemys umbrina</i>	Australia.
Tuatara	<i>Sphenodon punctatus</i>	New Zealand.
Turtle, Aquatic box	<i>Terrapene coahuila</i>	Mexico.
Turtle, Atlantic Ridley	<i>Lepidochelys kempi</i>	Do.
Turtle, Hawksbill	<i>Eretmochelys imbricata</i>	Tropical seas.
Turtle, Leatherback	<i>Dermochelys coriacea</i>	Tropical seas and temperate seas.
Turtle, South American River	<i>Podocnemis expansa</i>	Orinoco and Amazon River Basin, northern South America.
Turtle, South American River	<i>Podocnemis unifilis</i>	Do.
Yacare (Caiman)	<i>Caiman yacare</i>	Bolivia, Argentina, Peru, Brazil.
Birds:		
Albatross, Short-tailed	<i>Diomedea albatrus</i>	Japan.
Bobwhite, Masked	<i>Colinus virginianus ridgwayi</i>	United States, Mexico.
Bristlebird, Western	<i>Dasyornis brachypterus longirostris</i>	Australia.
Bulbul, Mauritius oliveaceous	<i>Myiophobus borbonicus oliveaceus</i>	Mauritius.
Bullfinch, Sao Miguel	<i>Pyrrhula pyrrhula murina</i>	Azores.
Bustard, Great Indian	<i>Choriotis nigripes</i>	India, Pakistan.
Cahow	<i>Pterodroma cahow</i>	Bermuda.
Condor, Andean	<i>Vultur gryphus</i>	Colombia to Chile, Argentina.
Crane, Hooded	<i>Grus monachus</i>	Japan, U.S.S.R.
Crane, Japanese	<i>Grus japonensis</i>	Japan, China, Korea, U.S.S.R.
Crane, Siberian white	<i>Grus leucophaea</i>	Siberia to India.
Crane, Whooping	<i>Grus americana</i>	Canada, United States.
Curassow, Red-billed	<i>Craz blumenbachii</i>	Brazil.
Curassow, Trinidad white-headed	<i>Pipile pipile pipile</i>	Trinidad.
Curlew, Eskimo	<i>Numenius borealis</i>	Canada to Argentina.
Dove, Cloven-feathered	<i>Drepanoptila holosericea</i>	New Caledonia.
Dove, Grenada	<i>Leptotila wellsi</i>	West Indies: Grenada.
Dove, Palau ground	<i>Gallicolumba canifrons</i>	Palau Islands.
Duck, White-winged wood	<i>Cairina scutulata</i>	India, Thailand, Malaysia, Burma, Indonesia (including Java), Philippines.
Eagle, Monkey-eating	<i>Pithecophaea jefferyi</i>	Philippines.
Eagle, Spanish imperial	<i>Aquila heliaca adalberti</i>	Spain, Morocco, Algeria.
Egret, Chinese	<i>Egretta eulophotes</i>	China, Korea.
Falcon, American peregrine	<i>Falco peregrinus anatum</i>	Canada, United States, Mexico.
Falcon, Arctic	<i>Falco peregrinus tundrius</i>	Canada, United States, Mexico.
Fantail, Palau	<i>Phidippa lepidus</i>	Palau Islands.
Flycatcher, Euler's	<i>Empidonax euleri johnstoni</i>	West Indies: Grenada.
Flycatcher, Seychelles black	<i>Terpsiphone corvina</i>	Seychelles.
Flycatcher, Tahiti	<i>Pomarea nigra nigra</i>	Tahiti.
Fody, Seychelles	<i>Foudia sechellarum</i>	Seychelles.
Goose, Aleutian Canada	<i>Branta canadensis leucopareia</i>	Japan, United States.
Goshawk, Christmas Island	<i>Accipiter fasciatus natalis</i>	Indian Ocean: Christmas Island.
Grackle, Slender-billed	<i>Cassidix palustris</i>	Mexico.
Grass-wren, Eyrean	<i>Amytornis godderi</i>	Australia.
Grebe, Attilan	<i>Podilymbus gigas</i>	Guatemala, Mexico.
Guan, Horned	<i>Oreophaps derbianus</i>	Guatemala, Mexico.
Gull, Audouin's	<i>Larus audouinii</i>	Mediterranean.
Hawk, Anjouan Island sparrow	<i>Accipiter francesii pusillus</i>	Comoro Islands.
Hawk, Galapagos	<i>Buteo galapagoensis</i>	Ecuador: Galapagos Islands.
Honeyeater, Helmeted	<i>Meliphaga cassidix</i>	Australia.
Ibis, Japanese crested	<i>Nipponia nippon</i>	Japan, Korea, U.S.S.R., China.
Kagu	<i>Rhinoceros jubatus</i>	New Caledonia.
Kakapo	<i>Strigops habroptilus</i>	New Zealand.
Kestrel, Mauritius	<i>Falco punctatus</i>	Mascarene Islands: Mauritius.
Kestrel, Seychelles	<i>Falco araea</i>	Seychelles.
Kite, Cuba hook-billed	<i>Chondrohierax wilsonii</i>	Cuba.
Kite, Grenada hook-billed	<i>Chondrohierax uncinatus mirus</i>	West Indies: Grenada.
Kokako	<i>Callacus cinerea</i>	New Zealand.
Magpie-robin, Seychelles	<i>Copsychus sechellarum</i>	Seychelles.
Maleo	<i>Macrocephalon maleo</i>	Indonesia: Celebes.
Malkoha, Red-faced	<i>Phaenicophaeus pyrrhocapalus</i>	Ceylon.
Megapode, LaProuse's	<i>Megapodius laProuse</i>	Palau Islands, Mariana Islands.
Monals (see Pheasant)		
Monarch, Tinian	<i>Monarcha takatsukasae</i>	Mariana Islands: Tinian Island.
Ostrich, Arabian	<i>Struthio camelus syriacus</i>	Jordan, Saudi Arabia.
Ostrich, West African	<i>Struthio camelus spatzi</i>	Spanish Sahara.
Owl, Anjouan scops	<i>Otus rutilus capnodes</i>	Comoro Islands.
Owl, Seychelles	<i>Otus insularis</i>	Seychelles.
Owl, Palau	<i>Otus podargina</i>	Palau Island.
Owlet, Mrs. Morden's	<i>Otus irenae</i>	Kenya.
Parakeet, Paradise	<i>Peophotus pulcherrimus</i>	Australia.
Parakeet, Forbes'	<i>Cyanoramphus auriceps forbesi</i>	New Zealand.
Parakeet, Mauritius ring-necked	<i>Pittacula krameri echo</i>	Mauritius.

Common name	Scientific name	Where found
Parakeet, Ochre-marked	<i>Pyrrhura cruentata</i>	Brazil.
Parakeet, Golden-shouldered	<i>Psephotus chrysoterygius</i>	Australia.
Parakeet, Turquoise	<i>Neophema pulchella</i>	Do.
Parrot, Bahamas	<i>Amazona leucocephala bahamensis</i>	Bahamas.
Parrot, Ground	<i>Pezoporus uallacii</i>	Australia.
Parrot, Imperial	<i>Amazona imperialis</i>	West Indies: Dominica.
Parrot, Night	<i>Geopaltacus occidentalis</i>	Australia.
Parrot, Orange-bellied	<i>Neophema chrysogaster</i>	Do.
Parrot, Red-browed	<i>Amazona rhodocorytha</i>	Brazil.
Parrot, St. Lucia	<i>Amazona versicolor</i>	West Indies: St. Lucia.
Parrot, St. Vincent	<i>Amazona guildingii</i>	West Indies: St. Vincent.
Parrot, Scarlet-chested	<i>Neophema splendida</i>	Australia.
Parrot, Thick-billed	<i>Rhynchopsitta pachyrhyncha</i>	Mexico, United States.
Pelican, Brown	<i>Pelecanus occidentalis</i>	Mexico, United States, Panama, Puerto Rico, etc.
Penguin, Galapagos	<i>Spheniscus mendiculus</i>	Ecuador: Galapagos Islands.
Pheasant, Bar-tailed	<i>Symaticus humiae</i>	Burma, China.
Pheasant, Blyth's tragopan	<i>Tragopan blythii</i>	China, Burma, India.
Pheasant, Brown-eared	<i>Crossoptilon mantchuricum</i>	China.
Pheasant, Cabot's tragopan	<i>Tragopan caboti</i>	Do.
Pheasant, Chinese monal	<i>Lophophorus thuyi</i>	Do.
Pheasant, Edwards	<i>Lophura edwardsi</i>	Vietnam.
Pheasant, Imperial	<i>Lophura imperialis</i>	Do.
Pheasant, Mikado	<i>Symaticus mikado</i>	Taiwan.
Pheasant, Palawan peacock	<i>Polyplectron emphanum</i>	Philippines.
Pheasant, Sclater's monal	<i>Lophophorus sclateri</i>	China, Burma, India.
Pheasant, Swinhoe's	<i>Lophura swinhoei</i>	Taiwan.
Pheasant, White tragopan	<i>Tragopan melanocephalus</i>	India, Pakistan.
Pheasant, White-eared	<i>Crossoptilon crossoptilon</i>	China, Tibet, India.
Pigeon, Azores wood	<i>Columba palumbus azorica</i>	Azores.
Pigeon, Chathan Island	<i>Hemiphaea novaezeelandiae chathamensis</i>	New Zealand.
Piolo	<i>Turnagra capensis</i>	Mascarene Islands: Reunion Island.
Plover, New Zealand shore	<i>Thinornis novae-zeelandiae</i>	New Zealand.
Rail, Auckland Island	<i>Rallus pectoralis muelleri</i>	Do.
Rhea, Darwin's	<i>Pterocnemia pennata</i>	Argentina, Peru, Uruguay, Bolivia.
Robin, Chathan Island	<i>Petroica traversi</i>	New Zealand.
Robin, Scarlet-breasted	<i>Petroica multicolor multicolor</i>	Australia: Norfolk Island.
Rock-Fowl, Grey-necked	<i>Picathartes oreas</i>	Cameroon.
Rock-Fowl, White-necked	<i>Picathartes gymnocephalus</i>	Togo to Sierra Leone.
Roller, Long-tailed ground	<i>Urolonchus chimera</i>	Madagascar.
Scrub-bird, Noisy	<i>Atrichornis clamosus</i>	Australia.
Shama, Cebu black	<i>Copsychus niger cebuensis</i>	Philippines.
Shrike, Mauritius cuckoo	<i>Coereba typicus</i>	Mascarene Islands: Mauritius.
Shrike, Reunion cuckoo	<i>Coereba newtoni</i>	Mascarene Islands: Reunion Island.
Starling, Ponape Mountain	<i>Aplonis pelzelni</i>	Caroline Islands: Ponape Island.
Starling, Rothschild's	<i>Leucopsar rothschildi</i>	Indonesia: Bali.
Stork, White oriental	<i>Ciconia ciconia boyciana</i>	Japan, Korea, China, U.S.S.R.
Tern, California least	<i>Sterna albifrons browni</i>	Mexico, United States.
Thrasher, White-breasted	<i>Ramphocinclus brachyurus</i>	West Indies: Martinique, St. Lucia.
Tragopans (see Pheasants)		
Trembler, Martinique brown	<i>Cinlocerthia ruficauda gutturalis</i>	West Indies: Martinique.
Wanderer, Plain	<i>Pedionomus torquatus</i>	Australia.
Warbler, Bachman's	<i>Vermivora bachmani</i>	Cuba, United States.
Warbler, Barbados yellow	<i>Dendroica petechia petechia</i>	West Indies: Barbados.
Warbler, Kirland's	<i>Dendroica kirlandii</i>	Bahamas, United States.
Warbler, Reed	<i>Acrocephalus tuscina</i>	Mariana Islands.
Warbler, Rodrigues	<i>Bebrornis rodericani</i>	Indian Ocean: Rodrigues Island.
Warbler, Semper's	<i>Lucopeza semperi</i>	West Indies: St. Lucia.
Warbler, Seychelles	<i>Bebrornis sechellensis</i>	Seychelles.
Whitbird, Western	<i>Psophodes nigrogularis</i>	Australia.
White-eye, Ponape great	<i>Rukia sanfordi</i>	Caroline Islands: Ponape.
White-eye, Seychelles	<i>Zosterops modestus</i>	Seychelles.
Woodpecker, Imperial	<i>Campephilus imperialis</i>	Mexico.
Woodpecker, Ivory-billed	<i>Campephilus principalis</i>	Cuba, United States.
Woodpecker, Tristram's	<i>Dryocopus javensis richardi</i>	Korea.
Wren, Guadeloupe house	<i>Troglodytes aedon guadeloupensis</i>	West Indies: Guadeloupe
Wren, New Zealand bush	<i>Xenicus longipes</i>	New Zealand.
Wren, St. Lucia	<i>Troglodytes aedon mesoleucus</i>	West Indies: St. Lucia.
Mammals:		
Anoa	<i>Anoa depressicornis</i>	Indonesia.
Armadillo, Pink fairy	<i>Chlamyphorus truncatus</i>	Argentina.
Ass, African wild	<i>Equus asinus</i>	Ethiopia, Somalia, Sudan.
Ass, Asian wild	<i>Equus hemionus</i>	Pakistan, Iran, India, China, Afghanistan, Central Asia.
Avahis (see Indris)		
Aye-aye	<i>Daubentonia madagascariensis</i>	Madagascar.
Bandicoot, Barred	<i>Perameles bougainville</i>	Australia.
Bandicoot, Desert	<i>Perameles eremiana</i>	Do.
Bandicoot, Rabbit	<i>Macrotis lagotis</i>	Do.
Bandicoot, Lesser rabbit	<i>Macrotis leucura</i>	Do.
Bandicoot, Pig-footed	<i>Chaeropus ecaudatus</i>	Do.
Banteng	<i>Bibos banteng</i>	Southeast Asia.
Bear, Mexican grizzly	<i>Ursus arctos nelsoni</i>	Mexico.
Bison, Wood	<i>Bison bison athabasca</i>	Canada.
Cat, tiger	<i>Felis tigris</i>	Costa Rica to northern South America.
Cheetah	<i>Acinonyx jubatus</i>	Africa, Asia Minor, India.
Clouded Leopard (see Leopard)		
Colobus, Red	<i>Colobus bandius rufomitratus</i>	Kenya.
Colobus, Zanzibar red	<i>Colobus badius kirkii</i>	Tanzania: Zanzibar.
Deer, Bawean	<i>Elaphus kuhli (Cervus kuhli)</i>	Indonesia.
Deer, Brown-Antlered, Eld's	<i>Cervus eldi</i>	India, Southeast Asia.
Deer, Marsh	<i>Blastocerus dichotomus</i>	Argentina, Uruguay, Brazil, Paraguay.
Deer, McNeill's	<i>Cervus elaphus macneilli</i>	China, Tibet.
Deer, Persian fallow	<i>Dama dama mesopotamica</i>	Iraq, Iran.
Deer, Swamp	<i>Cervus duvauceli</i>	India, Nepal.
Dibatag (see Gazelle, Clark's)		
Dibbler	<i>Antechinus apicalis</i>	Australia.
Dog, Asiatic wild	<i>Cuon alpinus</i>	U.S.S.R., India.
Dugong	<i>Dugong dugon</i>	East Africa to Ryukyu Islands.
Ferret, Black-footed	<i>Mustela nigripes</i>	United States, Canada.
Forester, Tasmanian	<i>Macropus giganteus tasmaniensis</i>	Australia.
Fox, Northern kit	<i>Vulpes velox hebes</i>	Canada.
Gaur (see Seladang)		
Gazelle, Clark's (Dibatag)	<i>Ammodorcas clarkii</i>	Somalia, Ethiopia.
Gazelle, Cuviers	<i>Gazella cuvieri</i>	Morocco, Tunisia.
Gazelle, Mhor	<i>Gazella dama mhorr</i>	Morocco.

Common name	Scientific name	Where found
Gazelle, Moroccan Dorcas	<i>Gazella dorcas masasiensis</i>	Morocco, Algeria.
Gazelle, Rio de Oro Dama	<i>Gazella dama laseni</i>	Spanish Sahara.
Gazelle, Sander-horned (Rhim)	<i>Gazella leucophaea</i>	Sudan, Algeria, Egypt, Libya.
Gilbon, Kloss	<i>Hylotates klossi</i>	Indo-China.
Gilbon, Pleated	<i>Hylotates pleatus</i>	Laos, Thailand, Cambodia.
Gorilla	<i>Gorilla gorilla</i>	Central and Western Africa.
Hartebeest, Swayne's	<i>Alcelaphus buselaphus swaynei</i>	Ethiopia.
Hog, Pygmy	<i>Sus salvatus</i>	India, Nepal, Bhutan, Sikkim.
Hyacina, Barbary	<i>Hyacina hyacina barbara</i>	Morocco.
Hyacina, Brown	<i>Hyacina brunnea</i>	South Africa.
Ibex, Pyrenean	<i>Capra pyrenaica pyrenaica</i>	Spain.
Ibex, Walla	<i>Capra walla</i>	Ethiopia.
Impala, Black-faced	<i>Aepyceros melampus petersi</i>	Southwest Africa, Angola.
Impala, Black-faced	Indridae; all members of the Genus	Madagascar and Comoro Islands.
Indri, Sifakas, Avelis	<i>Indri, Avelis, Propithecus</i>	Central and South America.
Jaguar	<i>Panthera onca</i>	Central and South America.
Kit fox (see Fox, Kit)		
Kouprey	<i>Bos sauveli</i>	Cambodia.
Langur, Douc	<i>Pygathrix nemus</i>	Indochina: China and Hainan Island.
Langur, Fagi Island	<i>Simulans concolor</i>	Indochina.
Lechwe, Black	<i>Kobus leche smithemani</i>	Zambia.
Lemurs	Lemuridae; all members of the genera	Madagascar and Comoro Islands.
	<i>Lemur, Haplorhina, Lepidur, Chirogaleus, Microchus, Phaner</i>	
Leopard	<i>Panthera pardus</i>	Africa, Asia Minor, India, Southeast Asia, Korea.
Leopard, Formosan clouded	<i>Neofelis nebulosa brachyurus</i>	Taiwan.
Leopard, Snow	<i>Panthera uncia</i>	Central Asia.
Lion, Asiatic	<i>Panthera leo persica</i>	India.
Lion, Spanish	<i>Felis lynx pardina</i>	Spain.
Macaque, Lion-tailed	<i>Macaca silenus</i>	India.
Manatee, Amazonian	<i>Trichechus inunguis</i>	Amazon Basin.
Manatee, West Indian (Florida)	<i>Trichechus manatus</i>	Caribbean, northern South America.
Mangabey, Tana River	<i>Cercopithecus galentus galentus</i>	Kenya.
Margay	<i>Felis wiedii</i>	Central and South America.
Marmoset, Gould's	<i>Callimico gouldii</i>	Brazil, Colombia, Ecuador, Peru.
Marmoset, Golden Lion (see Tamara)		
Marsupial, Eastern Jerboa	<i>Antechinus laniger</i>	Australia.
Marsupial-mouse, Large desert	<i>Smidopsis psammophila</i>	Do.
Marsupial-mouse, Long-tailed	<i>Smidopsis longicauda</i>	Do.
Marten, Formosan yellow-throated	<i>Martes flavigula chrysospila</i>	Taiwan.
Mexican Prairie Dog (see Prairie Dog, Mexican)		
Monkey, Spider	<i>Ateles geoffroyi frontatus</i>	Costa Rica, Nicaragua.
Do	<i>Ateles geoffroyi panamensis</i>	Costa Rica, Panama.
Monkey, Red-backed squirrel	<i>Saimiri oerstedi</i> (Saimiri sciureus oerstedi)	Do.
Monkey, Woolly spider	<i>Brachyteles arachnoides</i>	Brazil.
Mouse, Field	<i>Pseudomys fieldi</i>	Australia.
Mouse, Gould's	<i>Pseudomys gouldii</i>	Do.
Mouse, New Holland	<i>Pseudomys novae-hollandiae</i>	Do.
Mouse, Shark Bay	<i>Pseudomys praecox</i>	Do.
Mouse, Shortridge's	<i>Pseudomys shortridgei</i>	Do.
Mouse, Smoky	<i>Pseudomys fumus</i>	Do.
Mouse, Western	<i>Pseudomys occidentalis</i>	Do.
Natve-cat, Eastern	<i>Dasyurus viverrinus</i>	Do.
Numbat	<i>Myrmecobius fasciatus</i>	Do.
Ocelot	<i>Felis pardalis</i>	Central and South America.
Orangutan	<i>Pongo pygmaeus</i>	Indonesia, Malaysia, Brunei.
Oryx, Arabian	<i>Oryx leucorhynchus</i>	Arabian Peninsula.
Otter, Cameroon clawless	<i>Pteronura brasiliensis</i>	Cameroon.
Otter, Giant	<i>Lutra platanus</i>	South America.
Otter, La Plata	<i>Platanista latirostris</i>	Uruguay, Argentina, Bolivia, Brazil.
Plangale, Little	<i>Planigale tenuirostris</i>	Australia.
Porcupine, Southern	<i>Chadomys subspinosus</i>	Do.
Possum, Mountain pigmy	<i>Burramys parvus</i>	Brazil.
Possum, Scaly-tailed	<i>Wyulda squamicaudata</i>	Australia.
Prairie Dog, Mexican	<i>Cynomys mexicanus</i>	Mexico.
Fronghorn, Sonoran	<i>Antilocapra americana sonoriensis</i>	Mexico, United States.
Quokka	<i>Stoniz brachyurus</i>	Australia.
Rabbit, Volcano	<i>Lepus arizonae</i>	Australia.
Rat, Stick-nest	<i>Uromys myoides</i>	Do.
Rat, False water	<i>Uromys myoides</i>	Do.
Rat-kangaroo, Brushtailed	<i>Macrotis leucogaster</i>	Do.
Rat-kangaroo, Gaimard's	<i>Macrotis leucogaster</i>	Do.
Rat-kangaroo, Lesueur's	<i>Macrotis leucogaster</i>	Do.
Rat-kangaroo, Plain	<i>Macrotis leucogaster</i>	Do.
Rat-kangaroo, Queensland	<i>Macrotis leucogaster</i>	Do.
Rhin (see Gazelle, Slender-horned)		
Rhinoceros, Great Indian	<i>Rhinoceros unicornis</i>	India, Nepal.
Rhinoceros, Javan	<i>Rhinoceros sondaicus</i>	Indonesia, Burma, Thailand.
Rhinoceros, Northern white	<i>Ceratotherium simum cottoni</i>	Zaire, Uganda, Sudan, Central African Republic.
Rhinoceros, Sumatran	<i>Dicerorhinus sumatrensis</i>	Southeast Asia—Bangladesh to Vietnam to Indonesia (Borneo).
Saki, White-nosed	<i>Chiropotes albinus</i>	Brazil.
Seal, Mediterranean monk	<i>Monachus monachus</i>	Mediterranean, Northwest Africa.
Seledang (Gaur)	<i>Bos gaurus</i>	Coast and Black Sea.
Serval, Barbary	<i>Felis serval constantina</i>	Algeria.
Shou	<i>Cervus elaphus wallichii</i>	Tibet, Bhutan.
Shikas (see Indris)		
Sloth, Brazilian three-toed	<i>Bradypus torquatus</i>	Brazil.
Solenodon, Cuban	<i>Atopogale cubana</i>	Cuba.
Solenodon, Haitian	<i>Solenodon paradoxus</i>	Dominican Republic, Haiti.
Stag, Barbary	<i>Cervus elaphus barbarus</i>	Tunisia, Algeria.
Stag, Kashmir	<i>Cervus elaphus hanglu</i>	Kashmir.
Tamaraw	<i>Acacia mindorensis</i>	Philippines.
Tamarah, Golden-rumped	<i>Leontideus spp. (all species)</i>	Brazil.
Tiger, golden-headed tamarin; golden lion marmoset		
Tapir, Brazilian	<i>Tapirus terrestris</i>	Venezuela, Argentina, Brazil.
Tapir, Central America	<i>Tapirus bairdii</i>	Colombia.
Tapir, Mountain	<i>Tapirus pinchaque</i>	Southern Mexico to Colombia and Ecuador.
Thylacine (see Tiger, Tasmanian)		
Tiger	<i>Panthera tigris</i>	Central Asia, China, and Korea to India, Indonesia, and Malaysia.
Tiger, Tasmanian (Thylacine)	<i>Thylacinus cynocephalus</i>	Australia.
Tiger Cat (see Cat, Tiger)		
Uakari	<i>Cacajao spp. (all species)</i>	Peru, Colombia, Brazil, Venezuela, Ecuador.
Vicuña	<i>Vicuña vicuña</i>	Peru, Bolivia, Argentina.
Wallaby, Banded hare	<i>Lophoceros fasciatus</i>	Australia.
Wallaby, Brindled nail-tail	<i>Ongorhiza ferox</i>	Do.
Wallaby, Crescent nail-tail	<i>Ongorhiza ferox</i>	Do.
Wallaby, Parma	<i>Macropus parma</i>	Do.
Wallaby, Western hare	<i>Macropus fuscus</i>	Do.
Wallaby, Yellow-footed rock	<i>Peromyscus hirsutus</i>	Do.
Whale, Blue	<i>Balaenoptera musculus</i>	Oceanic.
Whale, Bowhead	<i>Balaenoptera mysticetus</i>	Do.
Whale, Finback	<i>Balaenoptera physalus</i>	Do.
Whale, Gray	<i>Eschrichtius gibbosus</i>	Do.
Whale, Humpback	<i>Macrorhynchus glacialis</i>	Do.
Whale, Right	<i>Balaenoptera borealis</i>	Do.
Whale, Sei	<i>Balaenoptera borealis</i>	Do.
Whale, Sperm	<i>Physeter catodon</i>	Do.
Wolf, Maned	<i>Canis lupus</i>	Brazil, Bolivia, Paraguay, Argentina.
Wombat, Barnard's	<i>Lasiorhinus latifrons</i>	Australia.
Wombat, Queensland hairy-nosed	<i>Lasiorhinus gilesii</i>	Do.
Yak, Wild	<i>Bos grunniens mutus</i>	Tibet, India.

§ 17.12 Endangered native wildlife.

After consultation with the appropriate States and after having reviewed the advice and recommendations of interested persons and organizations as appropriate, the Secretary has determined, in accordance with the provisions of 16 U.S.C. 668aa(c), the following species or subspecies of native wildlife to be threatened with extinction within the territory of the United States. The presence of a trinomial (third word) in the "scientific name" column identifies that animal as a subspecies. The "common name" column contains the most generally accepted names in the English language. When two or more common names for a species are in common usage, the most widely used one is placed first, followed by others in parentheses. The public should be aware that common and commercial names may vary from local usage. If one or more subspecies of a species are listed, it indicates that the species as a whole is not endangered although the named subspecies are.

COMMON NAME AND SCIENTIFIC NAME

Fishes:

Bonytail, Pahranaagat; *Gila robusta jordani*.
Chub, humpback; *Gila cypha*.
Chub, Mohave; *Siphateles mohavensis*.
Cisco, longjaw; *Coregonus alpenae*.
Cui-oi; *Chasmistes cujus*.
Dace, Kendall Warm Springs; *Rhinichthys osculus thermalis*.
Dace, Moapa; *Moapa coriacea*.
Darter, fountain; *Etheostoma fonticola*.
Darter, Maryland; *Etheostoma sellare*.
Darter, Okaloosa; *Etheostoma okaloosae*.
Darter, watercress; *Etheostoma nuchale*.
Gambusia, Big Bend; *Gambusia gagei*.
Gambusia, Clear Creek; *Gambusia heterochir*.
Gambusia, Pecos; *Gambusia nobilis*.
Killifish, Pahrump; *Empetrichthys latos*.
Pike, blue; *Stizostedion vitreum glaucum*.
Pupfish, Comanche Springs; *Cyprinodon elegans*.
Pupfish, Devil's Hole; *Cyprinodon diabolis*.
Pupfish, Owen River; *Cyprinodon radiosus*.
Pupfish, Tecopa; *Cyprinodon nevadensis calidae*.
Pupfish, Warm Springs; *Cyprinodon nevadensis pectoralis*.
Squawfish, Colorado River; *Ptychocheilus lucius*.
Stickleback, unarmored threespine; *Gasterosteus aculeatus williamsoni*.
Sturgeon, shortnose; *Acipenser brevirostrum*.
Topminnow, Gila; *Poeciliopsis occidentalis*.
Trout, Arizona (Apache); *Salmo sp.*
Trout, Gila; *Salmo gillae*.
Trout, greenback cutthroat; *Salmo clarki stromias*.
Trout, Lahontan cutthroat; *Salmo clarki henshawi*.
Trout, Paiute cutthroat; *Salmo clarki senilis*.
Woundfin; *Plagophorus argentissimus*.
Reptiles and amphibians:
Alligator, American; *Alligator mississippiensis*.
Boa, Puerto Rican; *Epicrates inornatus*.
Lizard, blunt-nosed leopard; *Crotaphytus silus*.
Salamander, desert slender; *Batrachoseps aridus*.
Salamander, Santa Cruz long-toed; *Ambystoma macrodactylum croceum*.
Salamander, Texas blind; *Typhlomolge rathbuni*.
Snake, San Francisco garter; *Thamnophis sirtalis tetrataenia*.
Toad, Houston; *Bufo houstonensis*.

Birds:

Akepa, Hawaii (akepa); *Loxops coccinea coccinea*.
Akepa, Maui (akepuie); *Loxops coccinea ochracea*.
Akialoa, Kauai; *Hemignathus procerus*.
Akiapolaau; *Hemignathus wilsoni*.
Bobwhite, masked; *Colinus virginianus ridgwayi*.
Condor, California; *Gymnogyps californianus*.
Coot, Hawaiian; *Fulica americana alai*.
Crane, Mississippi sandhill; *Grus canadensis pulla*.
Crane, whooping; *Grus americana*.
Crow, Hawaiian (alala); *Corvus tropicus*.
Creeper, Molokai (kakawahie); *Loxops maculata flammea*.
Creeper, Oahu (alauwahio); *Loxops maculata maculata*.
Curlew, Eskimo; *Numenius borealis*.
Duck, Hawaiian (koloa); *Anas wyvilliana*.
Duck, Laysan; *Anas laysanensis*.
Duck, Mexican; *Anas diazi*.
Eagle, Southern bald; *Haliaeetus leucocephalus leucocephalus*.
Falcon, American peregrine; *Falco peregrinus anatum*.
Falcon, Arctic peregrine; *Falco peregrinus tundrius*.
Finches, Laysan and Nihoa; *Psittirostra cantans*.
Gallinule, Hawaiian; *Gallinula chloropus sandwicensis*.
Goose, Aleutian Canada; *Branta canadensis leucopareia*.
Goose, Hawaiian (nene); *Branta sandwicensis*.
Hawk, Hawaiian (io); *Buteo solitarius*.
Kite, Florida Everglade (snail kite); *Rostrhamus sociabilis plumbeus*.
Honeycreeper, crested (akohekohe); *Palmeria dolei*.
Millerbird, Nihoa; *Acrocephalus kingi*.
Nukupuu, Kauai and Maui; *Hemignathus lucidus*.
Oo, Kauai (oo aa); *Moho braccatus*.
Ou; *Psittirostra psittacea*.
Pallia; *Psittirostra baileui*.
Parrot, Puerto Rican; *Amazona vittata*.
Parrotbill, Maui; *Pseudonestor xanthophrys*.
Pelican, brown; *Pelecanus occidentalis*.
Petrel, Hawaiian dark-rumped; *Pterodroma phaeopygia sandwichensis*.
Pigeon, Puerto Rican plain; *Columba inornata wetmorei*.
Prairie Chicken, Attwater's greater; *Tympanuchus cupido attwateri*.
Rail, California clapper; *Rallus longirostris obsoletus*.
Rail, light-footed clapper; *Rallus longirostris levipes*.
Rail, Yuma clapper; *Rallus longirostris yumanensis*.
Sparrow, Cape Sable; *Ammospiza mirabilis*.
Sparrow, dusky seaside; *Ammospiza migrans*.
Sparrow, Santa Barbara; *Melospiza melodia graminea*.
Stilt, Hawaiian; *Himantopus himantopus knudseni*.
Tern, California least; *Sterna albifrons browni*.
Thrush, large Kauai; *Phaeornis obscurus myadestina*.
Thrush, Molokai (olomau); *Phaeornis obscurus rutha*.
Thrush, small Kauai (pualohi); *Phaeornis palmeri*.
Warbler, Bachman's; *Vermivora bachmanii*.
Warbler, Kirtland's; *Dendroica kirtlandii*.
Whip-poor-will, Puerto Rican; *Caprimulgus noctitherus*.
Woodpecker, ivory-billed; *Campephilus principalis*.
Woodpecker, red-cockaded; *Dendrocopos borealis*.

Mammals:

Bat, Hawaiian hoary; *Lasturus cinereus semotus*.
Bat, Indiana; *Lyotis sodalis*.
Cougar, Eastern; *Felis concolor cougar*.
Deer, Columbian white-tailed; *Odocoileus virginianus leucurus*.
Deer, Key; *Odocoileus virginianus clavium*.
Ferret, black-footed; *Mustela nigripes*.
Fox, San Joaquin kit; *Vulpes macrotis mutica*.
Manatee, Florida (sea cow); *Trichechus manatus latirostris*.
Mouse, salt marsh harvest; *Reithrodontomys raviventris*.
Panther, Florida; *Felis concolor coryi*.
Prairie Dog, Utah; *Cynomys parvidens*.
Pronghorn, Sonoran; *Antilocapra americana sonoriensis*.
Rat, Morro Bay kangaroo; *Dipodomys heermanni morroensis*.
Squirrel, Delmarva Peninsula fox; *Sciurus niger cinereus*.
Wolf, Eastern timber; *Canis lupus lycaon*.
Wolf, Northern Rocky Mountain; *Canis lupus irremotus*.
Wolf, red; *Canis rufus*.

§ 17.13 Amendments of the list of endangered wildlife.

(a) The lists of endangered foreign wildlife (§ 17.11) and endangered native wildlife (§ 17.12) may be revised from time to time as additional data become available which show, to the Secretary's satisfaction, that a species or subspecies should be added to or removed from either list.

(b) The Director shall receive and maintain data regarding endangered species and subspecies of wildlife and at least once every 5 years, will conduct a thorough review of the lists of endangered wildlife. Any revisions of the lists which are proposed by the Secretary as the result of such review or otherwise will be published in the FEDERAL REGISTER, which notice shall give interested persons not less than 30 days to submit written comments and suggestions.

(c) At any time any interested person may submit a request for a review of any particular listed or nonlisted species or subspecies. Such requests must be dated and in writing, and should be submitted to the Director. The request must contain the following information:

- (1) Name and address of the person making the request;
- (2) Association, organization, or business, if any, represented by the person making the request;
- (3) Reasons why the person making the request, or the person he represents, should be considered to be an "interested person";
- (4) Designation of the particular species or subspecies in question by common and scientific name;
- (5) Narrative explanation of the request for review and justification for a change in the status of the species or subspecies as aforesaid in question;
- (6) Scientific, commercial, or other data believed to support the request; and
- (7) Signature of the person making the request.

If it is determined that substantial evidence has been presented which warrants a review, a finding to that effect

shall be published in the FEDERAL REGISTER. Such notice shall give all interested persons an opportunity to submit information on the status of the species or subspecies under review in such form or manner as may be specified.

Subpart C—Endangered Wildlife Importation Permits

§ 17.21 General permit requirement.

No person shall import from any foreign country and species or subspecies of wildlife which the Secretary has determined to be threatened with worldwide extinction, as evidenced by its inclusion on the list of endangered foreign wildlife (§ 17.11) without a valid permit issued pursuant to this subpart C.

§ 17.22 Economic hardship permits.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing importation of endangered foreign wildlife to prevent undue economic hardship.

(a) *Application procedure.*—Applications for permits to import endangered foreign wildlife to prevent undue economic hardship shall be submitted by letter of application to the Director. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Common and scientific names of the species or subspecies, number, and description (e.g., tanned hides), of the wildlife to be covered in the permit;

(2) Purpose of the importation;

(3) A full statement of the facts, circumstances and reasons why failure to grant a permit under this section would lead to undue economic hardship, together with all supporting documents, including certified copies of all relevant contracts, correspondence, financial commitments, and current and historical financial data which show the dollar amount of anticipated loss or economic hardship;

(4) A full statement of the applicant's involvement with the importation of the same or similar species or subspecies of wildlife during the calendar year immediately preceding the date the proposal to list such species or subspecies as endangered was published in the FEDERAL REGISTER and the same information for the period between the date the proposed listing was published in the FEDERAL REGISTER and the date the actual determination that the species or subspecies was endangered. This statement should include certified copies of all relevant contract, correspondence, and financial data pertaining to such importations;

(5) The economic and legal alternatives available to the applicant;

(6) Method of shipment;

(7) If live wildlife is involved, a detailed description of the type, size, and construction of the container; arrangements for feeding, watering, and otherwise caring for the wildlife in transit;

and the arrangements for caring for the wildlife on importation into the United States must be included;

(8) Date the importation is expected to occur; and

(9) Designated port of entry through which the importation will be made.

(b) *Additional permit conditions.*—In addition to the general conditions set forth in part 13 of this subchapter B, permits to import endangered wildlife to prevent undue economic hardship shall be subject to the following conditions:

(1) In addition to any reporting requirements set forth in the permit, a report of the importations made under authority of such permit shall be submitted in writing to the Director within 10 days following such importation.

(2) The death or escape of any living wildlife imported under the authority of such permit shall be reported to the Bureau's Office of Endangered Species and International Activities (phone 202-343-5687) immediately. The carcass of any such wildlife which die or are killed should be retained in such a manner as not to impair its use as a scientific specimen.

(c) *Issuance criteria.*—The Director shall consider the following in determining whether to issue a permit to import endangered foreign wildlife to prevent undue economic hardship:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of the wildlife;

(2) The severity of the economic hardship that likely would result should the permit not be issued;

(3) Evidence that the applicant had entered into a valid, binding contract to import into the United States the wildlife in question and that such contract had been concluded prior to the date on which the wildlife was listed as endangered pursuant to § 17.11;

(4) Whether the contract referred to in paragraph (c) (3) of this section had been entered into during the period between publication in the FEDERAL REGISTER of the proposal to list such species as endangered and the date of actual determination that the species or subspecies was endangered or during a period when the applicant would otherwise likely have known the wildlife in question would be determined to be endangered;

(5) Whether it appears the applicant can reasonably effect the importation within 1 year from the date on which the wildlife in question was listed as endangered in § 17.11; and

(6) The economic, legal or other alternatives or relief available to the applicant.

(d) *Tenure of permits.*—The tenure of permits to import endangered foreign wildlife to prevent undue economic hardship shall be designated on the face of the permit, but in no case shall extend beyond 1 year following the addition of that species or subspecies to the list of endangered foreign wildlife in § 17.11.

§ 17.23 Zoological, educational, scientific, or propagation permits.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the importation of endangered foreign wildlife for zoological, scientific, or educational purposes, or for the propagation of such wildlife in captivity.

(a) *Application procedures.*—Application for permits to import endangered foreign wildlife for zoological, educational, scientific, or propagational purposes shall be submitted by letter of application to the Director. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Common and scientific names of the species or subspecies, number, age and sex of the wildlife to be covered in the permit;

(2) Copy of the contract or other agreement under which such wildlife is to be imported, showing the country of origin, name and address of the seller or consignor, date of the contract, number and weight (if available), and description of the wildlife;

(3) A full statement of justification for the permit, including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes as appropriate and the planned disposition of the wildlife upon termination of the project;

(4) A description and the address of the institution or other facility where the wildlife will be used or maintained;

(5) A statement that at the time of application the wildlife to be imported is still in the wild, was born in captivity, or has been removed from the wild;

(6) A résumé of the applicant's attempts to obtain the wildlife to be imported from sources which would not cause the death or removal of additional animals from the wild, if appropriate; and

(7) If live wildlife is to be imported, include:

(i) A complete description, including photographs or diagrams, of the area and facilities in which the wildlife will be housed;

(ii) A brief résumé of the technical expertise available, including any experience the applicant or his personnel have had in propagating the species or closely related species to be imported;

(iii) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook; and

(iv) A detail description of the type, size, and construction of the container; arrangements for feeding, watering, and otherwise caring for the wildlife in transit; and the arrangements for caring for the wildlife on importation into the United States.

(b) *Additional permit condition.*—In addition to the general conditions set

forth in part 13 of this subchapter B, permits to import endangered foreign wildlife for scientific, educational, or zoological purposes or for the purpose of propagation of such wildlife in captivity shall be subject to the following conditions:

(1) In addition to any reporting requirements set forth in the permit, a report of the importation made under authority of any such permit shall be submitted in writing to the Director. Such report must be postmarked or actually delivered no later than 10 days following each such importation.

(2) The death or escape of any living wildlife imported under the authority of such permit shall be reported to the Bureau's Office of Endangered Species and International Activities immediately. The carcass of any such wildlife which die or are killed should be retained in such a manner as not to impair its use as a scientific specimen.

(c) *Issuance criteria.*—The Director shall consider, among other criteria, the following in determining whether to issue a permit to import endangered foreign wildlife for scientific, educational, or zoological purposes or for the purpose of propagation of such wildlife in captivity:

(1) The direct or indirect effect which issuing such a permit would be likely to have upon the wild populations of the wildlife;

(2) Whether the purpose for which the permit is being requested would likely reduce the severity of the threat of extinction facing the subject species or subspecies;

(3) Opinions or views of scientists or other persons or organizations knowledgeable of the wildlife to be imported or of other matters germane to the application;

(4) Whether the expertise, facilities or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application; and

(5) Whether the purpose for which the permit is being requested is adequate to justify the removal of the wildlife from the wild or otherwise change its status.

(d) *Tenure of permits.*—The tenure of permits to import endangered foreign wildlife for scientific, educational, or zoological purposes or for the purpose of propagation of such wildlife in captivity shall be designated on the face of the permit.

PART 19—AIRBORNE HUNTING

Subpart A—Introduction

- Sec.
19.1 Purpose of regulations.
19.2 Scope of regulations.
19.3 Relation to other laws.
19.4 Definitions.

Subpart B—Prohibitions

- 19.11 General prohibition.
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- Sec.
19.21 Limitation on Federal permits.

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- 19.31 State permits.
19.32 Annual reporting requirements.

AUTHORITY: Fish and Wildlife Act of 1956, 85 Stat. 480, as amended, 86 Stat. 905 (16 U.S.C. 742j-1).

Subpart A—Introduction

§ 19.1 Purpose of regulations.

The regulations contained in this part provide rules relative to the prohibition against shooting or harassing of wildlife from any aircraft, provide the requirements for the contents and filing of annual reports by the States regarding permits issued for such shooting or harassing, and provide regulations necessary for effective enforcement of the Fish and Wildlife Act of 1956 as amended (16 U.S.C. 742a-j-1).

§ 19.2 Scope of regulations.

The regulations contained in this part apply to all persons within the territorial jurisdiction of the United States, to all United States citizens whether within the territorial jurisdiction of the United States or on the high seas or on board aircraft in flight over the high seas, and to all persons on board aircraft belonging in whole or in part to any United States citizen, firm, or partnership, or corporation created by or under the laws of the United States, or any State, territory or possession thereof.

§ 19.3 Relation to other laws.

The exemptions to general prohibitions of the Fish and Wildlife Act of 1956, that permit airborne hunting in certain circumstances (See Subpart B of this part) do not supersede, or authorize the violation of, other laws designed for the conservation or protection of wildlife, including those laws prohibiting the shooting or harassing of bald and golden eagles, polar bears and other marine mammals, migratory birds, and other wildlife, except to the extent that airborne hunting is authorized by regulations or permits issued under authority of those laws. [See e.g., § 21.41 of this Subchapter]

§ 19.4 Definitions.

In addition to definitions contained in Part 10 of this subchapter, and unless the context otherwise requires, in this Part 19:

"Harass" means to disturb, worry, molest, rally, concentrate, harry, chase, drive, herd or torment.

Subpart B—Prohibitions

§ 19.11 General prohibition.

(a) Except as otherwise authorized by the Fish and Wildlife Act of 1956 as amended, no person shall:

(1) While airborne in any aircraft shoot or attempt to shoot for the purpose of capturing or killing any wildlife;

(2) Use an aircraft to harass any wildlife; or

(3) Knowingly participate in using an aircraft whether in the aircraft or on the ground for any purpose referred to in paragraph (a) (1) or (2);

(b) The acts prohibited in this section include, but are not limited to, any person who—

(1) Pilots or assists in the operation of an aircraft from which another person shoots or shoots at wildlife while airborne, or

(2) While on the ground takes or attempts to take any wildlife by means, aid, or use of an aircraft.

§ 19.12 Exceptions to general prohibitions.

The prohibitions of the preceding section shall not apply to any person who—

(1) Is acting within the scope of his official duties as an employee or authorized agent of a State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life or crops; or

(2) Is acting within the limitations of a permit referred to in §§ 19.21 or 19.31 of this part.

Subpart C—Federal Permits

§ 19.21 Limitation on Federal permits.

No Federal permits will be issued to authorize any person to hunt, shoot, or harass any wildlife from an aircraft, except for Federal permits to scare or herd migratory birds referred to in § 21.41 of this subchapter.

Subpart D—State Permits and Annual Report Requirements

§ 19.31 State permits.

(a) Except as provided in § 19.3, States may issue permits to persons to engage in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life or crops. States may not issue permits for the purpose of sport hunting.

(b) Upon issuance of a permit by a State to a person pursuant to this section, the issuing authority will provide immediate notification to the Special Agent in Charge having jurisdiction according to § 10.22.

§ 19.32 Annual reporting requirements.

(a) Any State issuing permits to persons to engage in airborne hunting or harassing of wildlife or any State whose employees or agents participate in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life or crops, shall file with the Director, an annual report on or before July 1 for the preceding calendar year ending December 31.

(b) The annual report required by this section shall contain the following information as to each such permit issued:

(1) The name and address of each person to whom a permit was issued.

(2) Permit number and inclusive dates during which permit was valid.

(3) The aircraft number of the aircraft used and the location where such aircraft was based.

(4) Common name and number of the wildlife for which authorization to take was given and a description of the area from which the wildlife were authorized to be taken.

(5) The purpose for which the permit was issued, specifically identifying whether the permit was issued to protect land, water, wildlife, livestock, domestic animals, crops, or human life.

(6) The common name and number of wildlife taken by permittees and State employees or agents.

(c) A compilation of all annual reports required by this section shall be made by the Director and furnished to any State filing such annual report.

PART 21—MIGRATORY BIRD PERMITS

Subpart A—Introduction

Sec.

21.1 Purpose of regulations.

21.2 Scope of regulations.

Subpart B—General Requirements And Exceptions

21.11 General permit requirements.

21.12 General exception to permit requirements.

21.13 Permit exceptions for captive-reared mallard ducks.

21.14 Permit exceptions for captive-reared migratory waterfowl other than mallard ducks.

Subpart C—Specific Permit Provisions

21.21 Import and export permits.

21.22 Banding or marking permits.

21.23 Scientific collecting permits.

21.24 Taxidermist permits.

21.25 Waterfowl sale and disposal permits.

21.26 Special aviculturist permit.

21.27 Special purpose permits.

21.28 Falconry permits.

Subpart D—Control of Depredating Birds

21.41 Depredation permits.

21.42 Authority to issue depredating orders to permit the killing of migratory game birds.

21.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies.

21.44 Depredation order for designated species of depredating birds in California.

21.45 Depredation order for depredating purple gallinules in Louisiana.

AUTHORITY.—Migratory Bird Treaty Act, sec. 3, 40 Stat. 755 (16 U.S.C. 704).

Subpart A—Introduction

§ 21.1 Purpose of regulations.

The regulations contained in this part supplement the general permit regulations of part 13 of this subchapter with respect to permits for the taking, possession, transportation, sale, purchase, barter, export, import, banding and marking of migratory birds. This part also provides certain exceptions to permit requirements for public, scientific or educational institutions, and establishes depredation orders which provide certain limited exceptions to the Migratory Bird Treaty Act (16 U.S.C. 703-711).

§ 21.2 Scope of regulations.

(a) Migratory birds, their parts, nests, or eggs, lawfully acquired prior to the

effective date of Federal protection under the Migratory Bird Treaty Act (16 U.S.C. 703-711) may be possessed or transported without a Federal permit, but may not be imported, exported, purchased, sold, bartered, or offered for purchase, sale, trade, or barter, and all shipments of such birds must be marked as provided by 18 U.S.C. 44 and § 14.81 of this subchapter: *Provided*, That no exemption from any statute or regulation shall accrue to any offspring of such birds.

(b) This Part 21, except for § 21.22 (banding or marking permits), does not apply to the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle (*Aquila chrysaetos*) for which regulations are provided in part 22 of this subchapter.

(c) The provisions of this Part are in addition to, and are not in lieu of other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also Part 13.)

Subpart B—General Requirements and Exceptions

§ 21.11 General permit requirements.

No person shall take, possess, transport, sell, purchase, barter, or offer for sale, purchase or barter, export or import any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and part 13, or as permitted by regulations in this part or part 20 (the hunting regulations).

§ 21.12 General exception to permit requirements.

The following exceptions to the permit requirement are allowed.

(a) Employees of the Department of the Interior authorized to enforce the provisions of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703-711), may, without a permit, take or otherwise acquire, hold in custody, transport, and dispose of migratory birds or their parts, nests, or eggs as necessary in performing their official duties.

(b) State game departments, municipal game farms or parks, and public museums, public zoological parks, and public scientific or educational institutions may acquire by gift or purchase, possess, transport, and by gift or sale dispose of lawfully acquired migratory birds or their progeny, parts, nests, or eggs without a permit: *Provided*, That such birds may be acquired only from persons authorized by this paragraph or by a permit issued pursuant to this part to possess and dispose of such birds, or from Federal or State game authorities by the gift of seized, condemned, or sick or injured birds. Any such birds, acquired without a permit, and any progeny therefrom may be disposed of only to persons authorized by this paragraph to acquire such birds without a permit. Any person exercising a privilege granted by this paragraph must keep accurate records of such operations showing the species and number of birds acquired, possessed, and

disposed of; the names and addresses of the persons from whom such birds were acquired or to whom such birds were donated or sold; and the dates of such transactions. These records shall be maintained on a calendar year basis and shall be retained for a period of 5 years following the end of the calendar year covered by the records.

§ 21.13 Permit exceptions for captive-reared mallard ducks.

Captive-reared and properly marked mallard ducks, alive or dead, or their eggs may be acquired, possessed, sold, traded, donated, transported, exported (but not imported), and disposed of by any person without a permit, subject to the following conditions, restrictions, and requirements:

(a) Nothing in this section shall be construed to permit the taking of live mallard ducks or their eggs from the wild.

(b) All mallard ducks possessed in captivity, without a permit, shall have been physically marked by removal of the hind toe from the right foot prior to 4 weeks of age and all such ducks hatched, raised, and retained in captivity thereafter shall be so marked prior to reaching 4 weeks of age.

(c) When so marked, such live birds may be disposed of to, or acquired from, any person and possessed and transported in any number at any time or place: *Provided*, That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 4 weeks of age.

(d) When so marked, such live birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of mallard ducks from the wild: *Provided*, That such birds may be killed by shooting, in any number, at any time, within the confines of any premises operated as a shooting preserve under State license, permit, or authorization; or they may be shot, in any number, at any time or place, by any person for bona fide dog training or field trial purposes: *Provided further*, That the provisions of the hunting regulations (part 20 of this subchapter) and the Migratory Bird Hunting Stamp Act (duck stamp requirement) shall not apply to shooting preserve operations, as provided for in this paragraph, or to bona fide dog training or field trial operations.

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot must remain attached to each carcass: *Provided*, That persons, who operate game farms or shooting preserves under a State license, permit, or authorization for such activities, may remove the marked foot when either the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass or on the container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to

requirements of his State license, permit, or authorization. When properly marked, such carcasses may be disposed of to, or acquired from, any person and possessed and transported in any number at any time or place.

§ 21.14 Permit exceptions for captive-reared migratory waterfowl other than mallard ducks.

Any person may, without a permit, lawfully acquire captive-reared and properly marked migratory waterfowl of all species other than mallard ducks, alive or dead, or their eggs, and possess and transport such birds or eggs and any progeny or eggs therefrom solely for his own use subject to the following conditions and restrictions:

(a) Such birds, alive or dead, or their eggs may be lawfully acquired only from holders of valid waterfowl sale and disposal permits except that properly marked carcasses of such birds may also be lawfully acquired as provided under paragraph (c) of this section.

(b) All progeny of such birds or eggs hatched, raised, and retained in captivity must be physically marked by removal of the hind toe from the right foot prior to reaching 4 weeks of age.

(c) No such birds or eggs or any progeny or eggs thereof may be disposed of by any means, alive or dead, to any other person unless a waterfowl sale and disposal permit has first been secured authorizing such disposal: *Provided*, That bona fide clubs, hotels, restaurants, boarding houses, and dealers in meat and game may serve or sell to their customers the carcasses of any such birds which they have acquired from the holder of a valid waterfowl sale and disposal permit.

(d) Lawfully possessed and properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of like species from the wild. (See pt. 20 of this subchapter.)

(e) At all times during possession, transportation, and storage until the raw carcasses of such bird are finally processed immediately prior to cooking, smoking, or canning, the marked foot must remain attached to each carcass unless such carcasses were otherwise properly marked and the foot removed prior to acquisition.

(f) When any such birds, alive or dead, or their eggs are acquired from a waterfowl sale and disposal permittee, the permittee shall furnish a copy of form 3-186, notice of waterfowl sale or transfer, to be retained on file by the buyer during his possession of such birds or eggs or progeny or eggs thereof.

Subpart C—Specific Permit Provisions

§ 21.21 Import and export permits.

(a) *Permit requirement.*—(1) A permit from the U.S. Department of Agriculture is required before any live migratory birds or eggs of the family Anatidae (wild ducks, geese, brant, and swans) may be imported. The permit required by this paragraph may be obtained by letter

of application addressed to USDA—ARS—ANH, Import-Export Animals and Products, Hyattsville, Md. 20782.

(2) An importation permit is required before any live birds, other than waterfowl or their eggs, or dead migratory birds, or their parts, nests, or eggs may be imported. Excepted from the permit required by this paragraph are: (1) Live birds of the family Anatidae, the importation of which is regulated by the preceding paragraph; and (2) migratory birds taken pursuant to the migratory bird hunting regulations, part 20 of this subchapter.

(3) A permit is required before any migratory birds, or their parts, nests, or eggs may be exported. Provided that captive-reared mallards may be exported without a permit as provided in § 21.13.

(b) *Application procedures.*—Applications for permits to import or export migratory birds shall be submitted to the appropriate Special Agent in Charge (see § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Whether importation or exportation is requested;

(2) Species and numbers of migratory birds or their parts, nests, or eggs to be imported or exported;

(3) Name and address of the person from whom such birds are being imported or to whom they are being exported;

(4) Purpose for which importation or exportation is being made;

(5) Estimated date of arrival or departure of shipment, and the port of entry or exit through which the shipment will be imported or exported; and

(6) Federal and State permit numbers and type of permits authorizing possession, acquisition, or disposition of such birds, their parts, nests, or eggs where such a permit is required.

(c) *Additional permit conditions.*—In addition to the general conditions set forth in Part 13 of this Subchapter B, import and export permits shall be subject to the following conditions:

In addition to any reporting requirement set forth in the permit, a report of the importations or exportations made under authority of such permit shall be submitted in writing to the Director. Such report must be postmarked or actually delivered no later than 10 days following each such importation or exportation.

(d) *Tenure of permits.*—The tenure of import and export permits shall be designated on the face of the permit.

§ 21.22 Banding or marking permits.

(a) *Permit requirement.* A banding or marking permit is required before any person may capture migratory birds for banding or marking purposes or use official bands issued by the Bureau for banding or marking any migratory bird.

(a) *Application procedures.* Applications for banding or marking permits shall be submitted by letter of application addressed to the Bird Banding Laboratory, Office of Migratory Bird Manage-

ment, Bureau of Sport Fisheries and Wildlife, Laurel, Maryland 20810. Each such application shall contain the general information and certification set forth by § 13.12(a) of this subchapter plus the following additional information:

(1) Species and numbers proposed to be banded or marked;

(2) Purpose of banding or marking;

(3) State or States in which authorization is requested; and

(4) Name and address of the public, scientific, or educational institution to which any specimens will be donated that are salvaged pursuant to paragraphs (c) (3) and (4) of this section.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, banding or marking permits shall be subject to the following conditions:

(1) The banding of migratory birds shall only be by official numbered leg bands issued by the Bureau. The use of any other band, clip, dye, or other method of marking is prohibited unless specifically authorized in the permit.

(2) All traps or nets used to capture migratory birds for banding or marking purposes shall have attached thereto a tag or label clearly showing the name and address of the permittee and his permit number, or the area in which such traps or nets are located must be posted with notice of banding operations posters (form 3-1155, available upon request from the Bird Banding Laboratory, Office of Migratory Bird Management, Bureau of Sport Fisheries and Wildlife, Laurel, Md. 20810) which shall bear the name and address of the permittee and the number of his permit.

(3) The holder of a banding or marking permit may salvage, for the purpose of donating to a public scientific or educational institution, birds killed or found dead as a result of the permittee's normal banding operations, and casualties from other causes. All dead birds salvaged under authority of a migratory bird banding or marking permit must be donated and transferred to a public scientific or educational institution at least every 6 months or within 60 days of the time such permit expires or is revoked, unless the permittee has been issued a special permit authorizing possession for a longer period of time.

(4) Permittees must keep accurate records of their operations and file reports as set forth in the North American Bird Banding Manual, or supplements thereto, in accordance with instructions contained therein.

(d) *Tenure of permits.*—Banding or marking permits are valid for a period of 2 years from the date of issue, unless otherwise stated on the face of the permit.

§ 21.23 Scientific collecting permits.

(a) *Permit requirement.* A scientific collecting permit is required before any person may take, transport, or possess migratory birds, their parts, nests, or eggs for scientific research or educational purposes.

(b) *Application procedures.* Applications for scientific collecting permits

shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12 (a) of this subchapter plus the following additional information:

(1) Species and numbers of migratory birds or their parts, nests, or eggs to be taken or acquired when it is possible to determine same in advance;

(2) Location or locations where such scientific collecting is proposed;

(3) Statement of the purpose and justification for granting such a permit, including an outline of any research project involved;

(4) Name and address of the public, scientific, or educational institution to which all specimens ultimately will be donated; and

(5) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, scientific collecting permits shall be subject to the following conditions:

(1) All specimens taken and possessed under authority of a scientific collecting permit must be donated and transferred to the public scientific, or educational institution designated in the permit application within 60 days following the date such permit expires or is revoked, unless the permittee has been issued a special purpose permit (See § 21.27) authorizing possession for a longer period of time.

(2) Unless otherwise provided on the permit, all migratory game birds taken pursuant to a scientific collecting permit during the open hunting season for such birds must be in conformance with part 20 of this subchapter;

(3) Unless specifically stated on the permit, a scientific collecting permit does not authorize the taking of live migratory birds from the wild.

(4) In addition to any reporting requirement set forth in the permit, a report of the scientific collecting activities conducted under authority of such permit shall be submitted to the issuing officer on or before January 10 of each calendar year following the year of issue unless a different date is stated in the permit.

(d) *Tenure of permit.* The tenure of scientific collecting permits shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue unless a different period of time is prescribed in the permit.

§ 21.24 Taxidermist permits.

(a) *Permit requirement.*—A taxidermist permit is required before any person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any person other than himself.

(b) *Application procedures.*—Application for taxidermist permits shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Each such application must

contain the general information and certification set forth by § 13.12(a) of this subchapter plus the following additional information:

(1) The address of premises where taxidermist services will be provided;

(2) A statement of the applicant's qualifications and experience as a taxidermist; and

(3) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Permit authorizations.*—A permit authorizes a taxidermist to:

(1) Receive, transport, hold in custody or possession, mount or otherwise prepare, migratory birds, and their parts, nests, or eggs, and return them to another.

(2) Sell properly marked, captive reared migratory waterfowl which he has lawfully acquired and mounted. Such mounted birds may be placed on consignment for sale and may be possessed by such consignee for the purpose of sale.

(d) *Additional permit conditions.*—In addition to the general conditions set forth in part 13 of this subchapter B, taxidermist permits shall be subject to the following conditions:

(1) Permittees must keep accurate records of operations, on a calendar year basis, showing the names and addresses of persons from and to whom migratory birds or their parts, nests, or eggs were received or delivered, the number and species of such, and the dates of receipt and delivery. In addition to the other records required by this paragraph, the permittee must maintain in his files, the original of the completed form 3-186, Notice of Waterfowl Sale or Transfer, confirming his acquisition of captive reared, properly marked migratory waterfowl from the holder of a current waterfowl sale and disposal permit.

(2) Notwithstanding the provisions of paragraph (c) of this section, the receipt, possession, and storage by a taxidermist of any migratory game birds taken by another by hunting is not authorized unless they are tagged as required by § 20.36 of this subchapter. The required tags may be removed during the taxidermy operations but must be retained by the taxidermist with the other records required to be kept and must be reattached to the mounted specimen after mounting. The tag must then remain attached until the mounted specimen is delivered to the owner.

(e) *Tenure of permit.*—The tenure of taxidermist permits or renewals thereof shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue.

§ 21.25 Waterfowl sale and disposal permits.

(a) *Permit requirement.* A waterfowl sale and disposal permit is required before any person may lawfully sell, trade, donate, or otherwise dispose of, to another person, any species of captive-reared and properly marked migratory waterfowl or their eggs, except that such a permit is not required for such sales or

disposals of captive-reared and properly marked mallard ducks or their eggs.

(b) *Application procedures.* Applications for waterfowl sale and disposal permits shall be submitted to the appropriate Special Agent in Charge (see: § 13.12(a) of this subchapter plus the following additional information:

(1) A description of the area where waterfowl are to be kept;

(2) Species and numbers of waterfowl now in possession and a statement showing from whom these were obtained;

(3) A statement as to whether or not all such waterfowl are marked as required by the provisions of this Part 21; and

(4) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, waterfowl sale and disposal permits shall be subject to the following conditions:

(1) Permittees may not take migratory waterfowl or their eggs from the wild, and may not acquire such birds or their eggs from any person not authorized by a valid permit issued pursuant to this part to dispose of such birds or their eggs.

(2) All live migratory waterfowl possessed in captivity under authority of a valid waterfowl sale and disposal permit shall have been, prior to 4 weeks of age, physically marked by removal of the hind toe from the right foot. All offspring of such birds hatched, raised and retained in captivity shall be so marked prior to attaining 4 weeks of age. The preceding does not apply to captive adult geese, swans, and brant which were marked previous to March 1, 1967, by a "V" notch in the web of one foot, nor to such birds held in captivity at public zoological parks, and public scientific or educational institutions.

(3) Such properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all the applicable hunting regulations governing the taking of like species from the wild.

(4) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot must remain attached to each carcass: *Provided*, That permittees who are also authorized to sell game under a State license, permit, or authorization may remove the marked foot from the raw carcasses if the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass or on the wrapping or container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization.

(5) Such properly marked birds, alive or dead, or their eggs may be disposed of in any number, at any time or place, to any person: *Provided*, That all such

birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 4 weeks of age, and *Provided further*, That on each date that any such birds or their eggs are transferred to another person, the permittee must complete a form 3-186, Notice of Waterfowl Sale or Transfer. (Bureau will provide supplies of form.) The permittee will furnish the original of completed form 3-186 to the person acquiring the birds or eggs; retain one copy in his files as a record of his operations; and, on or before the last day of each month, mail three copies of each form completed during that month to the office of the Bureau of Sport Fisheries and Wildlife which issued his permit.

(d) *Tenure of permits.*—The tenure of waterfowl sale and disposal permits or renewals thereof shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue.

§ 21.26 Special aviculturist permit.

(a) *Permit requirement.*—A special aviculturist permit is required before any person may acquire, propagate, possess, exhibit, or dispose of by exchange, sale, or gift to another person captive-reared migratory waterfowl not physically marked by removal of the hind toe from the right foot.

(b) *Application procedures.*—Applications for special aviculturist permits shall be submitted to the appropriate Special Agent in Charge (see: § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following information:

(1) A description of the area where such waterfowl are to be kept;

(2) Statement of number and species of non-toe-clipped waterfowl permittee now possesses, and the number of each species he requests to be authorized to possess;

(3) Statement of how, or when and from whom any non-marked waterfowl presently in possession were acquired;

(4) Statement of justification and need for such permit; and

(5) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, special aviculturist permits shall be subject to the following conditions:

(1) Permittees may not take migratory waterfowl or their eggs from the wild.

(2) Permittees may not dispose of migratory waterfowl which are not marked by physical removal of the hind toe from the right foot prior to 4 weeks of age to any person who does not hold a valid special aviculturist permit, nor acquire such unmarked waterfowl from any person who is not the holder of a valid special aviculturist permit.

(3) On each date that any such unmarked birds or their eggs are transferred to another special aviculturist permittee, the permittee transferring the birds or their eggs must complete a form 3-186, Notice of Waterfowl Sale or Transfer. The permittee will furnish the original of completed form 3-186 to the permittee acquiring the birds or eggs; retain one copy in his files as a record of his operations; and, on or before the last day of each month, mail three copies of each form completed during that month to the issuing official. The permittee shall clearly indicate on such form 3-186 that the waterfowl sold or transferred were "unmarked" and shall place his special aviculturist permit number on the form, as well as the permit number of the transferee, and shall not report such sales under authority of any other Federal permit. The Bureau will provide form 3-186 to permittees upon request.

(4) Permittees shall keep records in conformance with the provisions of § 13.46 of this subchapter. Such records shall be kept separately from records of activities under any other Federal permit held by the permittee.

(5) Within 30 days following December 31 of each calendar year, permittee must file a report, negative or otherwise, on a form furnished for that purpose. This form will require each permittee to record information concerning his transactions during the year, and will include but may not be limited to, the number of each species of non-toe-clipped waterfowl and waterfowl eggs on hand at the beginning of the period covered by the report, the name, address, and aviculturist permit number of each permittee from whom he acquired and to whom he transferred any non-toe-clipped waterfowl or waterfowl eggs, and the number of each species of non-toe-clipped waterfowl and waterfowl eggs left on hand as of December 31 of the year covered in the report.

(d) *Tenure of permit.*—The tenure of special aviculturist permits shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue unless a different period of time is prescribed in the permit.

§ 21.27 Special purpose permits.

Subject to the discretion and policies of the Bureau, permits may be issued for migratory bird activities outside the scope of the standard form permits of this part, upon a sufficient showing of benefit to the migratory bird resource, important research reasons, humane, or other compelling justification.

(a) *Permit requirement.*—A special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part.

(b) *Application procedures.*—Applications for special purpose permits shall be submitted to the appropriate Special Agent in Charge (see § 13.11(b) of this subchapter). Each such application must

contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A detailed statement describing the project or activity which requires issuance of a permit, purpose of such project or activity, and a delineation of the area in which it will be conducted. (Copies of supporting documents, research proposals, and any necessary State permits should accompany the application);

(2) Numbers and species of migratory birds involved where same can reasonably be determined in advance; and

(3) Statement of disposition which will be made of migratory birds involved in the permit activity.

(c) *Additional permit conditions.*—In addition to the general conditions set forth in Part 13 of this Subchapter B, special purpose permits shall be subject to the following conditions:

(1) Permittees shall file with the issuing officer an annual report of operations not later than January 31 of each year for the preceding calendar year or any portion thereof during which the permit was in force, describing in detail operations under the permit, number and species of migratory birds acquired, disposed of, and an inventory of those on hand as of December 31.

(2) Permittees shall make such other reports as may be requested by the issuing officer.

(d) *Tenure of permits.*—The tenure of special purpose permits shall be limited to the dates which appear on its face, but in no case shall be longer than the second full calendar year ending December 31 following the date of issue.

§ 21.28 Falconry permits.

(a) *Definitions.* In addition to definitions contained in part 10 of this subchapter, and unless the context otherwise requires, in this section:

"Falconry" means the sport of taking quarry by means of trained raptors.

"Raptor" means any migratory bird of the family Accipitridae (excluding bald and golden eagles), Falconidae, and Strigidae.

(b) *Interim rules.* Until final regulations are promulgated providing for permits, any person may, without a Federal permit, take, possess, and transport, but not sell, barter, purchase, import or export, live raptors for falconry purposes only in accordance with laws and regulations of the State where such act occurs: *Provided*, That no person may take in any one calendar year more than three raptors, and *Provided further*, That no person may take any raptor on the endangered native wildlife list (50 CFR 17.12) nor may any State issue a permit which will allow the taking of any such endangered raptor without prior written approval from the Director.

Subpart D—Control of Depredating Birds

§ 21.41 Depredation permits.

(a) *Permit requirement.* A depredation permit is required before any person may scare, herd, or kill migratory birds for depredation control purposes.

(b) *Applicant procedures.* Applications for depredation permits shall be submitted to the appropriate Special Agent in Charge (see § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A description of the area where depredations are occurring;

(2) The nature of the crops or other interests being injured;

(3) The extent of such injury; and

(4) The particular species of migratory birds committing the injury.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, depredation permits shall be subject to the following conditions:

(1) Permittees may not kill migratory birds unless specifically authorized on the permit.

(2) Unless otherwise specifically authorized, when permittees are authorized to kill migratory birds they may do so only with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or area described on the permit.

(3) Permittees may not use blinds, pits, or other means of concealment, decoys, duck calls, or other devices to lure or entice birds within gun range.

(4) All migratory birds killed shall be retrieved by the permittee and turned over to a Bureau representative or his designee for disposition to charitable or other worthy institutions for use as food, or otherwise disposed of as provided by law.

(5) Only persons named on the permit are authorized to act as agents of the permittee under authority of the permit.

(d) *Tenure of permits.* The tenure of depredation permits shall be limited to the dates which appear on its face, but in no case shall be longer than one year.

§ 21.42 Authority to issue depredating orders to permit the killing of migratory game birds.

Upon the receipt of evidence clearly showing that migratory game birds have accumulated in such numbers in a particular area as to cause or about to cause serious damage to agricultural, horticultural, and fish cultural interests, the Director is authorized to issue by publication in the FEDERAL REGISTER a depredation order to permit the killing of such birds under the following conditions:

(a) That such birds may only be killed by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or areas;

(b) That shooting shall be limited to such time as may be fixed by the Director on the basis of all circumstances involved. If prior to termination of the period fixed for such shooting, the Director receives information that there no longer exists a serious threat to the area or areas involved, he shall without delay cause to be published in the FEDERAL REGISTER an order of revocation;

(c) That such migratory birds as are killed under the provisions of any depredation order may be used for food or

donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, but shall not be sold, offered for sale, bartered, or shipped for purpose of sale or barter, or be wantonly wasted or destroyed: *Provided*, That any migratory game birds which cannot be so utilized shall be disposed of as prescribed by the Director;

(d) That any order issued pursuant to this section shall not authorize the killing of the designated species of depredating birds contrary to any State laws or regulations. The order shall specify that it is issued as an emergency measure designed to relieve depredations only and shall not be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated pursuant to section 3 of the Migratory Bird Treaty Act.

§ 21.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies.

A Federal permit shall not be required to control yellow-headed red-winged, bi-colored red-winged, tri-colored red-winged, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance: *Provided*:

(a) That none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale, but may be possessed, transported, and otherwise disposed of or utilized.

(b) That any person exercising any of the privileges granted by this section shall permit at all reasonable times including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(c) That nothing in this section shall be construed to authorize the killing of such birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State concerned.

§ 21.44 Depredation order for designated species of depredating birds in California.

In any county in California in which meadowlarks, horned larks, golden-crowned, white-crowned, and other crowned sparrows, goldfinches, house finches, acorn woodpeckers, Lewis woodpeckers, and flickers are, under extraordinary conditions, seriously injurious to agricultural or other interests, the Commissioner of Agriculture may, without a permit, kill or cause to be killed under his general supervision such of

the above migratory birds as may be necessary to safeguard any agricultural or horticultural crop in the county: *Provided*:

(a) That such migratory birds shall be killed only when necessary to protect agricultural or horticultural crops from depredation; that none of the above migratory birds killed, or the parts thereof, or the plumage of such birds, shall be sold or removed from the area where killed; but that all such dead migratory birds shall be buried or otherwise destroyed within this area, except that any specimens needed for scientific purposes, as determined by the State or the Director shall not be destroyed.

(b) That any Commissioner of Agriculture exercising the privileges granted by this section shall keep records of the persons authorized by the Commissioner to kill such migratory birds, and the estimated number of such birds killed pursuant to the exercise of his authority, and the Commissioner shall submit a report thereof to the Director on or before December 31 of each year or whenever the Director so requests.

§ 21.45 Depredation order for depredating purple gallinules in Louisiana.

Landowners, sharecroppers, tenants, or their employees or agents, actually engaged in the production of rice in Louisiana, may, without a permit, shoot purple gallinules (*Ionornis martinica*) when found committing or about to commit serious depredations to growing rice crops on the premises owned or occupied by such persons: *Provided*:

(a) That purple gallinules may only be killed pursuant to this section between May 1 and August 15 in any year.

(b) That purple gallinules killed pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided*, That the Director or the State agricultural department, college, or other public institution may requisition such purple gallinules killed as may be needed for scientific investigations: *Provided further*, That any purple gallinules killed under authority of this section may also be donated to charitable institutions for food purposes.

(c) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(d) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required by the State.

quired for such activities by the State of Louisiana.

(e) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the Director.

PART 22—EAGLE PERMITS

Subpart A—Introduction

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- 22.21 Permits for scientific or exhibition purposes.
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Subpart D—Depredation Control Orders on Golden Eagles

- 22.31 Golden eagle depredations control order on request of Governor of a State.
22.32 Conditions and limitations on taking under depredation control order.

AUTHORITY: Bald Eagle Protection Act, sec. 2, 54 Stat. 251, as amended 76 Stat. 1246 and 86 Stat. 1065, 16 U.S.C. 668a.

Subpart A—Introduction

§ 22.1 Purpose of regulations.

The regulations contained in this part govern the taking, possession, and transportation of bald and golden eagles for scientific, educational, and depredations control purposes and for the religious purposes of Indian tribes. The import, export, purchase, sale, or barter of bald or golden eagles, their parts, nests, or eggs is not permitted by any regulation of this subchapter B.

§ 22.2 Scope of regulations.

(a) Bald eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to June 8, 1940, and golden eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to October 24, 1962, may be possessed, or transported without a Federal permit, but may not be imported, exported, purchased, sold, traded, bartered, or offered for purchase, sale, trade or barter; and all shipments containing such birds, parts, nests, or eggs must be marked as provided by 18 U.S.C. 44 and § 14.81 of this Subchapter. Provided, That no exemption from any statute or regulation shall accrue to any offspring of such birds.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife. (see also Part 13 of this subchapter)

§ 22.3 Definitions.

In addition to definitions contained in Part 10 of this subchapter, and unless

the context otherwise requires, in this Part 22:

"Take" includes also pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb.

Subpart B—General Requirements

§ 22.11 General permit requirements.

No person shall take, possess, or transport any bald eagle (*Haliaeetus leucocephalus*) or any golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of such birds except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and Part 13 and under § 21.22 (banding or marking permits), or under a depredation order issued under Subpart D of this part.

§ 22.12 General restrictions.

No person shall sell, purchase, barter, trade, or offer for sale, purchase, barter, or trade, export or import, at any time or in any manner, any bald eagle (*Haliaeetus leucocephalus*), or any golden eagle (*Aquila chrysaetos*) or the parts, nests, or eggs of such birds, and no permit will be issued to authorize such acts.

§ 22.13 Disposition of eagles by the Bureau.

Any bald eagles or golden eagles or their parts, nest, or eggs seized for any violation under this part and forfeited to the Government, or otherwise acquired by the Bureau, may be placed on loan to public museums, public scientific or educational institutions, or public zoological parks, and suitable parts or plumage of such birds may be donated to individual Indians authorized by permit to possess such items for religious purposes.

Subpart C—Eagle Permits

§ 22.21 Permits for scientific or exhibition purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing taking, possession, or transportation of bald eagles or golden eagles, or their parts, nests, or eggs for the scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks.

(a) *Application procedure.* Applications for permits to take, possess, or transport bald or golden eagles, their parts, nests or eggs for scientific or exhibition purposes shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following information:

- (1) Species of eagle and number of such birds, nests, or eggs proposed to be taken, possessed, or transported;
- (2) Specific locality in which taking is proposed, if any;
- (3) Method taking proposed, if any;
- (4) If not taken, the source of eagles and other circumstances surrounding the proposed acquisition or transportation;
- (5) Name and address of the public museum, public scientific societies, or public zoological park for which they are intended;

(6) Complete explanation and justification of request, nature of project or study, number of specimens now at institution, reason these are inadequate, and other appropriate explanations.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to take, possess, or transport bald or golden eagles for scientific or exhibition purposes, shall be subject to the following condition: In addition to any reporting requirement set forth in the permit, the permittee shall submit a report of activities conducted under the permit to the Special Agent in Charge within 30 days after expiration of the permit.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take, possess, or transport bald or golden eagles for scientific or exhibition purposes unless he has determined that such taking, possession, or transportation is compatible with the preservation of the bald or golden eagle. In making such determination, the Director shall consider, among other criteria, the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of bald and golden eagles;

(2) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application;

(3) Whether the justification of the purpose for which the permit is being requested is adequate to justify the removal of the eagle from the wild or otherwise change its status; and

(4) Whether the applicant has demonstrated that the permit is being requested for *bona fide* scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks.

(d) *Tenure of permits.* The tenure of permits to take bald or golden eagles for scientific or exhibition purposes shall be that shown on the face of the permit.

§ 22.22 Permits for Indian religious purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Indians.

(a) *Application procedure.* Applications for permits to take, possess, and transport bald or golden eagles, their parts, nests, or eggs for the religious use of Indians shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Only applications from individual Indians will be accepted. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

- (1) Species and number of eagles or feathers proposed to be taken, or acquired by gift or inheritance.

(2) State and local area where the taking is proposed to be done, or from whom acquired.

(3) Name of tribe with which applicant is associated.

(4) Name of tribal religious ceremony(ies) for which required.

(5) Applicant must attach a certification from the Bureau of Indian Affairs that the applicant is an Indian.

(6) Applicant must attach a certification from a duly authorized official of the religious group that the applicant is authorized to participate in such ceremonies.

(b) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to take, possess, and transport bald or golden eagles, their parts, nests or eggs, for the religious use of Indians shall be subject to the following conditions:

(1) Bald or golden eagles or their parts possessed under permits issued pursuant to this section are not transferable, except such birds or their parts may be handed down from generation to generation or from one Indian to another in accordance with tribal or religious customs; and

(2) Permittees shall make such reports or submit inventories of eagle feathers or parts on hand as may be requested by the Special Agent in Charge.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take, possess, and transport bald or golden eagles, their parts, nests or eggs, for the religious use of Indians unless he has determined that such taking, possession, and transportation is compatible with the preservation of the bald or golden eagle. In making such determination, the Director shall consider, among other criteria, the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of bald or golden eagles; and

(2) Whether the applicant is an Indian who is authorized to participate in *bona fide* tribal religious ceremonies.

(d) *Tenure of permits.* Any permit issued pursuant to this section under which the applicant is authorized to take eagles shall be valid during the period specified on the face thereof which shall in no case be longer than 1 year from date of issue. Any permit issued pursuant to this part which authorizes the permittee to transport and possess eagles or their parts shall be valid for the life of the permittee unless sooner revoked.

§ 22.23 Permits to take depredating eagles.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking of depredating bald or golden eagles.

(a) *Application procedure.* Applications for permits to take depredating bald or golden eagles shall be submitted

to the appropriate Special Agent in Charge (Sec. § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Species and number of eagles proposed to be taken;

(2) Location and description of property where taking is proposed;

(3) Inclusive dates for which permit is requested;

(4) Method of taking proposed;

(5) Kind and number of livestock or domestic animals owned by applicant;

(6) Kind and amount of alleged damage; and

(7) Name, address, age, and business relationship with applicant of any person the applicant proposes to act for him as his agent in the taking of such eagles.

(b) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to take depredating bald or golden eagles shall be subject to the following conditions:

(1) Bald or golden eagles may be taken under permit by firearms, traps, or other suitable means except by poison or from aircraft;

(2) The taking of eagles under permit may be done only by the permittee or his agents named in the permit;

(3) Any eagle taken under authority of such permit will be promptly turned over to a Bureau agent or other game law enforcement officer designated in the permit; and

(4) In addition to any reporting requirement set forth in the permit, the permittee shall submit a report of activities conducted under the permit to the Special Agent in Charge within 10 days following completion of the taking operations or the expiration of the permit whichever occurs first.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take depredating bald or golden eagles unless he has determined that such taking is compatible with the preservation of the bald or golden eagle. In making such determination the Director shall consider the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild population of bald or golden eagles;

(2) Whether there is evidence to show that bald or golden eagles have in fact become seriously injurious to wildlife or to agriculture or other interests in the particular locality to be covered by the permit, and the injury complained of is substantial; and

(3) Whether the only way to abate the damage caused by the bald or golden eagle is to take some or all of the offending birds.

(c) *Tenure of permits.* The tenure of any permit to take bald or golden eagles for depredation control purposes shall be that shown on the face thereof, and

shall in no case be longer than 90 days from date of issue.

§ 22.24 Permits for falconry purposes. [Reserved]

Subpart D—Depredation Control Orders on Golden Eagles

§ 22.31 Golden eagle depredations control order on request of Governor of a State.

(a) Whenever the Governor of any State requests permission to take golden eagles to seasonally protect domesticated flocks and herds in such State, the Director shall make an investigation and if he determines that such taking is necessary to and will seasonally protect domesticated flocks and herds in such States he shall authorize such taking in whatever part or parts of the State and for such periods as he determines necessary to protect such interests.

(b) Requests from the Governor of a State to take golden eagles to seasonally protect domesticated flocks and herds must be submitted in writing to the Director listing the periods of time during which the taking of such birds is recommended, and including a map of the State indicating the boundaries of the proposed area of taking. Such requests should include a statement of the facts and the source of such facts that in the Governor's opinion justifies the request. After a decision by the Director, the Governor will be advised in writing concerning the request and a notice will be published in the *FEDERAL REGISTER*.

§ 22.32 Conditions and limitations on taking under depredation control order.

(a) Whenever the taking of golden eagles without a permit is authorized for the seasonal protection of livestock, such birds may be taken by firearms, traps, or other suitable means except by poison or from aircraft.

(b) Any person exercising any of the privileges granted by this Subpart D must permit all reasonable times, including during actual operations, any Bureau agent, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require concerning such operations.

(c) The authority to take golden eagles under a depredations control order issued pursuant to this Subpart D only authorizes the taking of golden eagles when necessary to seasonally protect domesticated flocks and herds, and all such birds taken must be reported and turned over to a local Bureau Agent.

The changes in these regulations made by the original notice of proposed rule-making (38 FR 10208), and the changes adopted in this rulemaking are virtually all editorial or structural changes. The only substantive changes involve a relaxation and clarification of certain pro-

cedures and statements of Agency policy in making determinations on permit applications. Considering the extremely long period during which the public has had actual notice of these changes, and considering the importance of making these rules effective as soon as possible for public convenience, it has been determined that there is good cause to make this rulemaking effective upon publication pursuant to 5 U.S.C. 553.

Effective date: These regulations become effective on January 4, 1974.

CURTIS BOHLEN,
*Acting Assistant Secretary
for Fish and Wildlife and Parks.*

DECEMBER 27, 1973.

[FR Doc.74-255 Filed 1-3-74;8:45 am]

federal register

FRIDAY, JANUARY 4, 1974
WASHINGTON, D.C.

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PART IV



DEPARTMENT OF LABOR

**Employment Standards
Administration**

Office of the Secretary



Minimum Wages for Federal and Federally Assisted Construction

**General Wage Determination Decisions,
Modifications and
Supersedeas Decisions;
Proposed Variation of Certain
Wage Rates and Index**

DEPARTMENT OF LABOR

Employment Standards Administration
MINIMUM WAGES FOR FEDERAL AND
FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions. General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes these procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications And Supersedes Decisions To General Wage Determination Decisions. Modifications and Supersedes Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 USC 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

Modifications To General Wage Determination Decisions. The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State:

Kentucky:	
AQ-4036	Nov. 23, 1973.
Louisiana:	
AQ-42	Nov. 2, 1973.
Massachusetts:	
AQ-3026; AQ-3027	Oct. 19, 1973.
AQ-3031	Nov. 2, 1973.
AQ-3038; AQ-3039; AQ-3040; AQ-3041; AQ-3042; AQ-3043; AQ-3044; AQ-3045.	Nov. 23, 1973.
Pennsylvania:	
AP-834	May 25, 1973.

Supersedes Decisions To General Wage Determination Decisions. The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State; Supersedes Decision numbers are in parentheses following the number of the decisions being superseded:

Massachusetts:	
AQ-3007(AQ-3073)	Aug. 31, 1973.
AQ-3008(AQ-3072)	Sept. 7, 1973.

Signed at Washington, D.C., this 28th day of December 1973.

RAY J. DOLAN,
Assistant Administrator,
Wage & Hour Division.

MODIFICATIONS P. 2

MODIFICATIONS P. 1

DECISION #AO-42 - Mod. #2
(38 FR 30342 - November 2, 1973)
Acadia, Allen, Ascension, Assump-
tion, Beauregard, Calcasieu,
Cameron, East Baton Rouge, East
Feliciana, Evangeline, Iberia,
Iberville, Jefferson, Jefferson
Davis, Lafayette, Lafourche,
Livingston, Orleans, Plaquemines,
Pointe Coupee, St. Bernard, St.
Charles, St. Helena, St. James,
St. John the Baptist, St. Landry,
St. Martin, St. Mary, St. Tammany,
Tangipahoa, Terrebonne, Vermilion,
Washington, West Baton Rouge &
West Feliciana Parishes, Louisiana

Change:

Asbestos workers:
Ascension, Assumption, East Baton
Rouge, East Feliciana, Iberia,
Iberville, Jefferson, Lafayette,
Lafourche, Livingston, Orleans,
Plaquemines, Pointe Coupee, St.
Bernard, St. Charles, St. Helena,
St. James, St. John the Baptist,
St. Landry, St. Martin, St.
Mary, St. Tammany, Tangipahoa,
Terrebonne, Washington, West
Baton Rouge & West Feliciana
Parishes

Carpenters:

Ascension (north of the Missis-
sippi River), East Baton Rouge,
East Feliciana, Iberville,
Livingston, Pointe Coupee, St.
Helena, St. James (north of the
Mississippi River), West Baton
Rouge & West Feliciana Parishes
Piledrivermen:
Ascension (north of the Missis-
sippi River), East Baton Rouge,
East Feliciana, Iberville,
Livingston, Pointe Coupee, St.
Helena, St. James (north of the
Mississippi River), West Baton
Rouge & West Feliciana Parishes

Basic Hourly Rates	Fringe Benefits Payments				Others
	H & W	Pensions	Vacation	App. Tr.	
\$9.25	.60	1 1/2% .30		1/2 of 1%	
9.25 6.94	.60 .60	1 1/2% .30 1 1/2% .30		1/2 of 1% 1/2 of 1%	

DECISION #AO-4036 - Mod. #2
(38 FR 32369 - November 23, 1973)
Boone, Campbell, Kenton, & Pendleton
Counties, Kentucky.

Omit:

Heavy and Highway Construction
Electricians

Add:

Heavy and Highway Construction
Electricians:
Electricians - Linemen
Groundmen

Basic Hourly Rates	Fringe Benefits Payments				Others
	H & W	Pensions	Vacation	App. Tr.	
\$6.95	.35	.80			
6.60	.20	.20		.04	
6.60	.20	.20		.04	

MODIFICATIONS P. 4

Basic Hourly Rates	Fringe Benefits Payments				
	H & W	Pensions	Vacation	App. Tr.	Others
\$4.05	.15			.05	
4.25	.15			.05	
5.45					
5.45					
5.80					
6.30					
5.55					
5.92					
5.80					
5.90					.01

Basic Hourly Rates	Fringe Benefits Payments				
	H & W	Pensions	Vacation	App. Tr.	Others
<p><u>DECISION #AQ-3.044 - Mod. #2</u> (38 FR 32380 - November 23, 1973) Norfolk County, Massachusetts</p>					
<p><u>Change:</u> Bricklayers; Cement masons; Plasterers; Medfield, Medway, & Millis Painters; Remainder of County: Brush; Taper Steel Spray</p>					
\$8.70	.60	.65			.04
7.56	.62	.50			.04
7.56+4	.62	.50			.04
8.56	.62	.50			.04
<p><u>DECISION #AQ-3.026 - Mod. #4</u> (38 FR 29125 - October 19, 1973) Plymouth County, Massachusetts</p>					
<p><u>Change:</u> Leadburners Painters: Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Nor- well, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater, & Whitman: Brush; Taper (New construction) Steel (New construction) Spray (New construction) Brush; Taper (Repaint & altera- tions) Steel (Repaint & alterations) Spray (Repaint & alterations)</p>					
8.75	.30		d		.01
8.21	.62	.50			.04
8.21+4	.62	.50			.04
9.21	.62	.50			.04
7.56	.62	.50			.04
7.56+4	.62	.50			.04
8.56	.62	.50			.04

Basic Hourly Rates	Fringe Benefits Payments				Basic Hourly Rates
	H & W	Pensions	Vacation	App. Tr.	
DECISION #AQ-3.027 - Mod. #5 (38 FR 29129 - October 19, 1973) Plymouth County, Massachusetts					
Change: Painters: Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield Nor- well, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater, W. & Whitman: Brush; Taper Steel Spray	.62 .62 .62	.50 .50 .50			
7.56 7.56+ 8.56					
DECISION #AQ-3.045 - Mod. #2 (38 FR 32383 - November 23, 1973) Suffolk County, Massachusetts					
Change: Leadburners	.30		c	.01	
8.75					
Omit: Painters: Brush Structural steel Spray	.32 .32 .32	.30 .30 .30			
7.61 7.61+ 8.61					
Add: Painters: New Construction: Brush; Tapers Structural steel Spray Repaint; Alterations: Brush Structural steel Spray	.62 .62 .62	.50 .50 .50			
8.21 8.21+ 9.21					
7.56 7.56+ 8.56					

Basic Hourly Rates	Fringe Benefits Payments				Basic Hourly Rates
	H & W	Pensions	Vacation	App. Tr.	
DECISION #AQ-3.038 - Mod. #2 (38 FR 32352 - November 23, 1973) Barnstable County, Massachusetts					
Change: Leadburners	.30		d		.01
\$8.75					
DECISION #AQ-3.039 - Mod. #2 (38 FR 32356 - November 23, 1973) Bristol County, Massachusetts					
Change: Leadburners	.30		d		.01
8.75					
Painters: Remainder of County: Brush; Taper Steel Spray	.62 .62 .62	.20 .20 .20			.04 .04 .04
7.13 9.135 8.13					
Omit: Filed: rivenmen Footnote: f. Employer contributes \$5.00 per day above brush rate.	.50	.30			
9.15					
Add: Filed: rivenmen: Fall River, Freetown, Seekonk, Somerset, Swansea, & Westport Acushnet, Dartmouth, Fairhaven, New Bedford, & South Dartmouth Remainder of County Plasterers' tenders: Easton, North Attleboro, North Easton, & South Easton	.50 .45 .50 .40	.30 .50 .30 .40			.02 .05
8.65 8.10 9.15 7.05					
DECISION #AQ-3.040 - Mod. #2 (38 FR 32361 - November 23, 1973) Essex County, Massachusetts					
Change: Bricklayers; Stonemasons: Andover, Boxford, Danvers, Lawrence, Lynn, Lynnfield, Marblehead, Methuen, Middleton, Nahant, North Andover, Peabody, Salem, Saugus, Swampscott, & Topsfield Leadburners	.39 .30	.65	c		.04 .01
8.91 8.75					

MODIFICATIONS P. 7

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-3,040 Cont'd				
Omit:				
Painters:				
Andover, Boxford, Lawrence, Methuen, & North Andover				
Brush	.15			
Structural steel	.15			
Spray				
Georgetown, Groveland, Haverhill, Merrimac, Newbury, Newburyport, Rowley, Salisbury, & West Newbury				
Brush (Under \$3,500.00)	3.00			
Brush (Over \$3,500.00)	3.75			
Steel	4.05			
Remainder of County				
Brush	6.55	.20		
Steel	6.80	.20		
Spray	6.925	.20		
Add:				
Painters:				
Amesbury, Andover, Beverly, Boxford, Danvers, Georgetown, Groveland, Hamilton, Haverhill, Ipswich, Lawrence, Lynn, Lynnfield, Marblehead, Merrimac, Methuen, Middleton, Newbury, Newburyport, N. Andover, Peabody, Rowley, Salem, Salisbury, Saugus, Swampscott, Topsfield, Wenham, West Newbury				
New Construction:				
Brush; Tapers	8.08	.62		
Sandblasters; Spray	9.08	.62		
Steel	8.08+f	.62		

MODIFICATIONS P. 8

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-3,031 - Mod. #2 (38 FR 30357 - November 2, 1973) Hampden County, Massachusetts				
Change:				
Leadburners	\$8.75	.30	d	.01
DECISION #AQ-3,041 - Mod. #2 (38 FR 32366 - November 23, 1973) Middlesex County, Massachusetts				
Change:				
Bricklayers; Stonemasons:				
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, & Stow	8.70	.60		.04
Leadburners	8.75	.30	c	.01
Omit:				
Cement masons:				
Action, Bedford, Burlington, Lowell, Tyngsboro, & Westford	8.60	.55		
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Wilmington, Winchester, & Woburn	9.15	.50	.30	.05
Ashland, Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, Stow, & Tewksbury	8.75	.60	.60	.04
Painters:				
Arlington, Belmont, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester, & Woburn				
Brush; Taper	7.71	.62	.40	.04
Steel	7.71+e	.62	.40	.04
Spray \$1.00 per hour premium				
Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington				
Brush; Taping	7.27	.33	.20	
Spray	8.02	.33	.20	
Paperhangings	7.12	.33	.20	
Steel	7.07	.33	.20	
N. Reading, Reading				
Brush	4.10	.15		
Steel	4.60	.15		
Spray	5.10	.15		

MODIFICATIONS P. 10

MODIFICATIONS P. 9

DECISION #AQ-3, 041 Cont'd

Plasterers:

Ashland, Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, Stow, & Tewksbury
Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland, & Weston
Acton, Bedford, Burlington, Lowell, Tyngsboro, & Westford

Add:

Cement masons:

Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, & Stow
Maynard, Natick, Sherborn, & Stow
Bedford, Burlington, Lowell, Tyngsboro, & Westford
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Wilmington, Winchester, & Woburn
Acton, Ashby, Ayer, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, N. Acton, Pepperell, Shirley, S. Acton, Tewksbury, Townsend, & W. Acton

Painters:

Arlington, Belmont, Cambridge, Malden, Medford, Melrose, N. Reading, Reading, Somerville, Stoneham, Wakefield, Winchester, & Woburn

New Construction:

Brush; Taper
Sandblasting; Spray
Steel
Repoint; Alteration:
Brush
Sandblasting; Spray
Steel

Basic Hourly Rates	Fringe Benefits Payments				App. Tr.	Others
	H & W	Pensions	Vacation			
\$8.75	.60	.60			.04	
8.45	.50	.50			.04	
8.60	.55					
8.70	.60	.65			.04	
8.60	.55					
9.15	.50	.30			.05	
8.75	.60	.60			.04	
8.21	.62	.50			.04	
9.21	.62	.50			.04	
8.21+e	.62	.50			.04	
7.56	.62	.50			.04	
8.56	.62	.50			.04	
7.56+e	.62	.50			.04	

DECISION #AQ-3, 041 Cont'd

Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington
Brush; Taping
Spray
Paperhangers
Steel
Plasterers:
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, & Stow
Acton, Ashby, Ayer, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, N. Acton, Pepperell, Shirley, S. Acton, Tewksbury, Townsend, & W. Acton
Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland, & Weston
Bedford, Burlington, Lowell, Tyngsboro, & Westford

Basic Hourly Rates	Fringe Benefits Payments				App. Tr.	Others
	H & W	Pensions	Vacation			
\$8.00	.33	.20				
8.75	.33	.20				
8.00	.33	.20				
8.80	.33	.20				
8.70	.60	.65			.04	
8.75	.60	.60			.04	
8.95	.50	.50			.04	
8.60	.55					
8.70	.60	.65			.04	
7.21	.62	.40			.04	
8.21	.62	.40			.04	
7.21+e	.62	.40			.04	

DECISION #AQ-3, 042 - Mod. #2
(38 FR 32372 - November 23, 1973)

Middlesex County, Massachusetts

Change:

Bricklayers; Stonemasons:
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, & Stow

Omit:

Painters:
Arlington, Belmont, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester, & Woburn
Brush; Tapers
Sandblasting; Spray
Steel

MODIFICATIONS P. 11

DECISION #AQ-3.042 Cont'd

Basic Hourly Rates	Fringe Benefits Payments				App. Tr.	Others
	H & W	Pensions	Vacation			
Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington						
Brush	7.27	.33	.20			
Spray	8.02	.33	.20			
Reading						
Brush	4.10	.15				
Spray	5.10	.15				
Steel	4.60	.15				
Plasterers:						
Ashland, Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, Stow, & Tewksbury	8.75	.60	.60		.04	
Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland, & Weston	8.45	.50	.50		.04	
Acton, Bedford, Burlington, Lowell, Tyngsboro, & Westford	8.60	.55				
Add:						
Painters:						
Arlington, Belmont, Cambridge, Malden, Medford, Melrose, N. Reading, Reading, Somerville, Stoneham, Wakefield, Winchester, & Woburn						
Brush	7.56	.62	.50		.04	
Sandblasting; Spray	8.56	.62	.50		.04	
Steel	7.56 ^{ha}	.62	.50		.04	
Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington						
Brush	8.00	.33	.20			
Spray	8.75	.33	.20			
Plasterers:						
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, & Stow	8.70	.60	.65		.04	

MODIFICATIONS P. 12

DECISION #AQ-3.042 Cont'd

Basic Hourly Rates	Fringe Benefits Payments				App. Tr.	Others
	H & W	Pensions	Vacation			
Acton, Ashby, Ayer, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, N. Acton, Peppercell, Shirley, S. Acton, Tewksbury, Townsend, & W. Acton	\$8.75	.60	.60		.04	
Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland, & Weston	8.95	.50	.50		.04	
Bedford, Burlington, Lowell, Tyngsboro, & Westford	8.60	.55				
DECISION #AQ-3.043 - Mod. #2 (38 FR 32376 - November 23, 1973) Norfolk County, Massachusetts						
Change:						
Bricklayers; Cement masons; Plasterers; & Stonemasons: Medfield, Medway, & Millis	8.70	.60			.04	
Leadburners	8.75	.30	.65	c	.01	
Omit:						
Painters:						
Remainder of County:						
Brush	7.86	.62	.40		.04	
Steel	7.86 ^{te}	.62	.40		.04	
Spray	8.86	.62	.40		.04	
Add:						
Painters:						
Remainder of County:						
New Construction:						
Brush; Tapers	8.21	.62	.50		.04	
Steel	8.21 ^{te}	.62	.50		.04	
Spray	9.21	.62	.50		.04	
Repaint; Alteration:						
Brush	7.56	.62	.50		.04	
Steel	7.56 ^{te}	.62	.50		.04	
Spray	8.56	.62	.50		.04	

STATE: Massachusetts
DECISION NO.: AQ-3,072
Supersedes Decision No.
DESCRIPTION OF WORK: Re-
garden type apartments

COUNTY: Suffolk
DATE: Date of Publication
1973, in 38 FR 24480.
sting of single family homes and
s.

Change:

Heavy & Highway Construction:
Carpenters
Carpenters-welders

Basic Hourly Rates	Fringe Benefits Payments				
	H & W	Pensions	Vacation	App. Tr.	Others
\$7.37	6%	6%			
7.61	.455	.455			

13-R-MASS-b (1-1)

RESIDENTIAL

		Fringe Benefits Payments				
Basic Hourly Rates		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS		\$8.955	.55	.50	.01	
BRICKLAYERS		8.65	.60	.70	.04	
CARPENTERS; Soft floor layers		8.85	.50	.50	.03	
CEMENT MASONS		9.15	.50	.30	.05	
ELECTRICIANS		5.25	.35	14.95	.05	
GLAZIERS		8.55	.25	.36	.02	
IRONWORKERS		8.39	.50	1.40	.06	
LABORERS:						
Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers; Jackhammer op.; Pavement breakers; Wagon drillis; Asphalt rakers; Carbide core drilling machine; chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy		7.05	.40	.40	.05	
Air track; Block pavers; Rammers; Curb setters		7.30	.40	.40	.05	
Blasters; Powdermen		7.55	.40	.40	.05	
LATHERS		7.15	.45	.55	.01	
PAINTERS:						
Brush		7.56	.62	.50	.04	
Steel		7.56 ¹⁴	.62	.50	.04	
Spray		8.56	.62	.50	.04	
PLASTERERS		8.10	.45	1.15	.02	
PLASTERERS' TENDERS		7.05	.40	.40	.05	
PLUMBERS		9.85	.50	.60	.03	
ROOFERS		8.00	.30	.20	.05	
SHEET METAL WORKERS		8.73	.46	.45	.02	
STEAMFITTERS		9.76	.51	.65	.05	
TILE SETTERS		8.25	.60	.50		
TILE SETTERS', HELPERS		6.50	.20	.10		

FOOTNOTE:

a. Employer pays \$5.00 per day extra above the brush rate.

FOOTNOTE:

a. Employer pays \$5.00 per day extra above the brush rate.

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TRUCK DRIVERS

FRINGE BENEFITS PAYMENTS

BASIC HOURLY RATES	H & W	PENSIONS	VACATION	APP. TR.
\$3.97	.24	.35	a+b	
4.02	.24	.35	a+b	
4.12	.24	.35	a+b	
4.22	.24	.35	a+b	
4.22	.24	.35	a+b	
3.97	.24	.35	a+b	

Two axle equipment
Three axle equipment
Four and five axle equipment
Low bed trailer
Specialized earth moving equipment
other than conventional
Helpers on low beds

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
- b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

(1-2)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS					
Shovels, cranes, truck cranes, drag-lines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	\$9.11	.55	.60	a	.02
Boom over 150' including job - additional \$.35 per hour Boom over 185' including job - additional \$.70 per hour Boom over 210' including job - additional \$1.00 per hour Boom over 250' including job - additional \$1.50 per hour Boom over 295' including job - additional \$2.00 per hour					
Master mechanic	9.86	.55	.60	a	.02
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, yolk rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02

POWER EQUIPMENT OPERATORS

Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump

Assistant engineers (firemen)

Oilers and apprentices (other than truck cranes and gradalls)

Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

Basic Hourly Rates	Fringe Benefits Payments				Others
	H & W	Pensions	Vacation	App. Tr.	
\$7.625	.55	.60	a	.02	
8.31	.55	.60	a	.02	
6.75	.55	.60	a	.02	
7.13	.55	.60	a	.02	

STATE: Massachusetts

DECISION NO.: AQ-3.073

COUNTY: Worcester

DATE: Date of Publication

Supersedes Decision No. AQ-3.007, dated August 31, 1973, in 38 FR 23710.

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION 14-MASS-1-2-3-a (1-3)

TOWNSHIPS OF: Fitchburg, Grafton, Harvard, Holden, Lancaster, Leicester, Leominster, Millbury, N. Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	Fringe Benefits Payments				Others
	Basic Hourly Rates	H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	\$8.62	.47	.20		.01
BOILERMAKERS	8.705	.50	10%		.01
BRICKLAYERS; Cement finishers; Plasterers; Stonemasons; Leominster	8.75	.60	.60		.04
BRICKLAYERS: Cement masons; Marble setters; Plasterers; Stonemasons; Terrazzo workers; & Tile setters; Grafton, Holden, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	8.50	.50	.45		.02
CARPENTERS; Soft floor layers: Fitchburg, Harvard, & Leominster	8.85	.50	.50		.03
Grafton, Holden, Lancaster, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Whitinsville, Worcester Westboro	8.95	.40	.50		.03
ELECTRICIANS: Fitchburg, Harvard, Lancaster, & Leominster	7.95	.50	.30		.07
Grafton, Holden, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	8.80	.45	17+ .25		.02
ELEVATOR CONSTRUCTORS	9.33	5%	17+ .24		.01
ELEVATOR CONSTRUCTORS' HELPERS	8.13	.345	.23	2%+a+b	.015
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.345	.23	2%+a+b	.015
GLAZIERS	8.55	.25	.36		.02
IRONWORKERS: Ornamental; Reinforcing; Structural	8.39	.50	1.40		.06
LABORERS (BUILDING): Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers; Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy	6.80	.40	.40		.05
Air track; Block pavers; Rammers; Curb setters	7.05	.40	.40		.05
Blasters; Powdermen	7.30	.40	.40		.05
	7.55	.40	.40		.05

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14-MASS-1-2-3-a (2-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		M & W	Pensions	Vacation	App. Tr.	Others
LABORERS (BUILDING) CONT'D:						
Open air caisson; Cylindrical work & boring crew:						
Laborer; Top man	\$6.55	.40	.40		.05	
Helper	6.67	.40	.40		.05	
Bottom men	7.30	.40	.40		.05	
Driller	7.42	.40	.40		.05	
LATHERS	8.12	1.25	.25		.01	
LEAD BURNERS	8.75	.30		c	.01	
LINE CONSTRUCTION:						
Lineman	8.08	.25	1%	d		
Equipment operator	7.17	.25	1%	d		
Driver Groundman	5.41	.25	1%	d		
Groundman	5.16	.25	1%	d		
MARBLE SETTERS; Terrazzo workers:						
Fitchburg, Harvard, Lancaster, & Leominster	8.25	.60	.50			
MARBLE SETTERS' HELPERS	6.50	.20	.10			
MILLWRIGHTS	9.13	.50	.50			
PAINTERS:						
Westboro:						
Brush	7.00	.35	.25			
Steel	7.25	.35	.25			
Sandblasters; Spray	7.95	.35	.25			
Remaining portion:						
Brush	7.83	.50	.25			
Structural steel	8.455	.50	.25			
Sandblasting; Spray	8.83	.50	.25			
PILEDRIVERS	9.15	.50	.30			
PIPEFITTERS	9.725	.35	.25			
PLASTERERS' TENDERS:						
Grafton, Holden, Leicester, Millbury, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	7.05	.40	.40			
PLUMBERS; Steamfitters:						
Grafton, Holden, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	8.725	.55	.30			
Fitchburg, Harvard, Lancaster, & Leominster	8.75	.30	.40	4%	.02	
ROOFERS; Damp-proofers	8.50	.55	.25		.05	
SHEET METAL WORKERS	9.50	.55	.25		.07	
SPRINKLER FITTERS	9.08	.40	.60			
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS:						
Fitchburg, Harvard, Lancaster, & Leominster	8.25	.60	.50			
TILE SETTERS' HELPERS	6.50	.20	.10			

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.
- 6 paid holidays: A through F
- 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
- 7 paid holidays: A through F, & Bunker Hill Day, provided the employee has worked 10 days prior to the listed holidays.

TRUCK DRIVERS:

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		M & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pickup trucks	\$5.91	.35	.50	atb	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift ops.	6.01	.35	.50	atb	
Three axle equipment and firemen	6.06	.35	.50	atb	
Four and five axle equipment	6.16	.35	.50	atb	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	6.26	.35	.50	atb	
Specialized earth moving equipment over 35 tons	6.51	.35	.50	atb	
Trailers for earth moving equipment, (double hookup)	6.76	.35	.50	atb	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
- Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.

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TRUCK DRIVERS-BUILDING CONSTRUCTION

MASS-1-TD-1 -A 1 of 1

BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
	H & W	PENSIONS	VACATION	APP. TR.
\$3.97	.24	.35	a+b	
4.02	.24	.35	a+b	
4.12	.24	.35	a+b	
4.22	.24	.35	a+b	
4.22	.24	.35	a+b	
3.97	.24	.35	a+b	

Two axle equipment
Three axle equipment
Four and five axle equipment
Low bed trailer
Specialized earth moving equipment
other than conventional
Helpers on low beds

PAID HOLIDAYS: (Where Applicable)

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

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MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	FRINGE BENEFITS PAYMENTS				Basic Hourly Rates
	H & W	Pensions	Vacation	App. Tr.	
Shovels, cranes, truck cranes, drag-lines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	.55	.60	a		\$9.11
Boom over 150' including jib - additional \$.35 per hour Boom over 185' including jib - additional \$.70 per hour Boom over 210' including jib - additional \$1.00 per hour Boom over 250' including jib - additional \$1.50 per hour Boom over 295' including jib - additional \$2.00 per hour					
Master mechanic	.55	.60	a		9.86
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, yolk rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines					
	.55	.60	a		8.99

